



STEPHEN F. AUSTIN STATE UNIVERSITY

NACOGDOCHES, TEXAS

PROCUREMENT AND BUSINESS SERVICES

P. O. Box 13030

NACOGDOCHES, TX 75962

REQUEST FOR PROPOSAL

RFP NUMBER

HVAC KERR & GRIFFITH HALL-23

ADDENDUM NO. 2

Dated: 03/22/2023

PROPOSAL MUST BE RECEIVED BEFORE:

5:00PM, FRIDAY, MARCH 31, 2023

MAIL PROPOSAL TO:

Stephen F. Austin State University
Procurement and Business Services
P. O. Box 13030, SFA Station
Nacogdoches, TX 75962-3030

**HAND DELIVER AND/OR
EXPRESS MAIL TO:**

Stephen F. Austin State University
Procurement and Business Services
2102 Alumni Drive, Austin Bldg., Room 131
Nacogdoches, TX 75962

Show RFP Number, Due Date and Time on Return Envelope

NOTE: PROPOSAL must be time stamped at **Stephen F. Austin State University
Procurement and Business Services** before the hour and date specified for receipt of proposal.

REFER INQUIRIES TO:

Kay Johnson or Kim Jones
Stephen F. Austin State University
Procurement and Business Services
936.468.6550 or 936.468.6551
email: johnsondk6@sfasu.edu or
joneskk2@sfasu.edu

**STEPHEN F. AUSTIN STATE UNIVERSITY
Request for Proposal #HVAC KERR & GRIFFITH HALL-23**

ADDENDUM NO. 2

**THIS ADDENDUM MUST BE ACKNOWLEDGED IN ORDER FOR THE RESPONSE TO
RECEIVE CONSIDERATION. FAILURE TO ACKNOWLEDGE THE ADDENDUM WILL
RESULT IN DISQUALIFICATION OF THE RESPONSE.**

Please see **Exhibit F** titled Link to Engineering & Consulting Documents which was provided in the RFP #HVAC KERR & GRIFFITH HALL-23 published on March 3, 2023. This **Exhibit F** is attached in the Addendum No. 2 with the changes that were made from that originally published date. (Note link is being provided again as well.)

Please see **Exhibit J** which contains the certified EMA Engineering & Consulting, Inc document dated March 22, 2023 titled ADDENDUM NUMBER TWO TO PLANS FOR

HVAC RENOVATIONS FOR
GRIFFITH AND KERR HALL
STEPHEN F. AUSTIN

EMA PROJECT NUMBER: 1 001 1269 006

This document contains three (3) pages which include a **GENERAL INFORMATION** section and a **PRE-BID QUESTIONS** section that includes fourteen (14) questions and answers from the mandatory pre-proposal conference held on 03/16/2023 at 9:00 AM.

It also includes a **SPECIFICATIONS** section and a **DRAWINGS** section. Please read and inspect this document carefully and in its entirety.

Please see **Exhibit K** which contains the Scope Summary provided by Texas Air Systems.

**EXHIBIT F
LINK TO ENGINEERING & CONSULTING
DOCUMENTS DATED MARCH 2, 2023**

**(CHANGES TO SPECIFICATIONS AND
DRAWINGS ATTACHED AFTER THE LINK
PROVIDED BELOW)**

<https://we.tl/t-BynIJs3pon>

SECTION 23 21 14

PRE-INSULATED UNDERGROUND CHILLED/HOT WATER PIPING

PART 1 GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of Contract, including General and Supplementary Conditions, Division 01 Specifications and Section 23 00 00, apply to this Section.

1.2 SECTION INCLUDES

- A. Underground chilled/hot water piping
- B. Appurtenances
- C. Insulation

1.3 RELATED SECTIONS

- A. Section 23 00 00 – Basic Mechanical Requirements
- B. Section 23 05 93 – Testing, Adjusting, and Balancing for HVAC
- C. Section 23 21 13 – Hydronic Piping, Valves, and Appurtenances

1.4 REFERENCES

- A. Refer to Section 23 00 00 for complete names of references identified in this section.
 - 1. ASTM D-1784 - PVC pipe
 - 2. ASTM C-591 - Insulation

1.5 SUBMITTALS

- A. Product Data:
 - 1. Provide submittal data on all equipment specified in this section in accordance with Section 23 00 90, General Conditions, and Division 01.
 - 2. Submit product data indicating typical catalog of information including arrangements.
 - 3. Submit product data sheets indicating dimensions, general assembly, and materials used in fabrication.
 - 4. Submit manufacturer's installation instructions.
- B. Shop Drawings:
 - 1. Submit 1/4" per foot shop drawing(s) showing all piping and equipment shown by plans and specifications. The drawings shall be coordinated with all utilities.

1.6 DELIVERY, STORAGE AND HANDLING

- A. Comply with manufacturer's installation instructions for rigging, unloading, and transporting material.
- B. Protect any broken PVC covers.

1.7 OPERATION AND MAINTENANCE DATA

- A. Submit operation and maintenance data.

- B. Include manufacturer's descriptive literature, operating instructions, installation instructions, and maintenance and repair data.

PART 2 - PRODUCTS

2.1 MANUFACTURER

- A. Thermacor
- B. Insul-Pipe Systems

2.2 GENERAL

- A. Furnish and install as scheduled on drawings, pre-insulated pipe.

2.3 PIPE

- A. Thermacor insulated steel piping system. The system shall be **POLYCOR PLATINUM HDPE for HOT WATER and POLYCOR for CHILLED WATER.**
- B. Hot water shall be high density polyethylene (HDPE), raised temperature, conforming to ASTM D-3350. Pipe shall be Platinum Stripe 1800 as manufactured by Performance Pipe for HW. Pipe and fittings are manufactured from extra high molecular weight polyethylene compound and fabricated to SDR 11 wall thickness in standard IPS sizes. Operating temperature up to 180°F at 100psi.
- C. Chill Water shall be standard PE4710 high density polyethylene conforming to ASTM D-3350. Pipe and fittings are manufactured from extra high molecular weight polyethylene compound and fabricated to SDR 17 wall thickness in standard IPS sizes. Operating pressure to 125psi at 73°F.
- D. Square ends, beveled for butt weld.
- E. Straight sections have factory insulation to within 6" of end.
- F. **HDPE PIPE REQUIRING EXPANSION LOOPS IS NOT ACCEPTABLE.**

2.4 INSULATION

- A. Polyurethane foam injected between jacket and pipe with one shot. Rigid 90-95% closed, 2.5 to 3.5 lbs./cf density. K-factor 0.14 and conform to ASTM C-591. 1.5 inches thick.
- B. Use precut sectional urethane foam at straight joints as recommended by manufacturer.

2.5 JACKET MATERIAL

- A. Extended PVC Class 12454-B conform to ASTM D-1784 Grade 1.
- B. Jacketing material shall be extruded, black, high-density polyethylene (HDPE), having a minimum wall thickness of 100 mils for pipe sizes equal to or less than 12", 125 mils for jacket sizes greater than 12" to 24", and 150 mils for jacket sizes greater than 24". The inner surface of the HDPE jacket shall be oxidized by means of corona treatment, flame treatment (patent pending), or other approved methods. This will ensure a secure bond between the jacket and foam insulation preventing any ingress of water at the jacket/ foam interface.

2.6 FITTINGS

- A. Factory prefabricated and insulated.

- B. Fittings may be field insulated with liquid urethane foam and jacketed with PVC fitting cover. Wrap all field insulated joints with polyurethane backed, pressure sensitive butyl tape, 30 mils thick.

PART 3 - EXECUTION

3.1 EQUIPMENT INSTALLATION

- A. Installation shall be in accordance with the plans, specifications, and manufacturer's instructions.
- B. Field-engineered piping systems shall be fabricated from factory insulated sections of straight pipe and fittings. When practical, piping shall be provided in 40-foot double-random lengths. All HDPE piping shall have ends cut square in preparation for butt fusion welding.
- C. Carrier pipe joining shall be accomplished using an authorized butt fusion welding machine preheated to the correct pipe temperature for fusion welding. All heating surfaces shall be clean and free of dirt and residue before applying to ends of pipe to be joined. After heating, the softened ends are pressed together by the machine and held until the joint has hardened. Improperly accomplished, uneven, or joints with questionable appearance shall be cut out and re-accomplished. Transitions to other piping materials shall be accomplished using suitable flanged or mechanical adapters.
- D. Underground systems shall be buried in a trench of not less than two feet deeper than the top of the pipe and not less than eighteen inches wider than the combined O.D. of all piping systems. A minimum thickness of 24 inches of compacted backfill over the top of the pipe will meet H-20 highway loading.
- E. Trench bottom shall have a minimum of 6" of sand, pea gravel, or specified backfill material as a cushion for the piping. All field cutting of the pipe shall be performed in accordance with the manufacturer's installation instructions.
- F. Fittings may be insulated with insulation kits provided by pipe system manufacturer.
- G. Provide all fittings, valves, devices, etc. for a complete operational, maintainable and reliable system.
- H. Follow manufacturer recommendations for unloading, storing and handling of pipe and joint insulation. Be cautious not to destroy insulation values.
- I. Wrap all field insulated joints with polyurethane backed, pressure sensitive butyl tape, 30 mils thick.

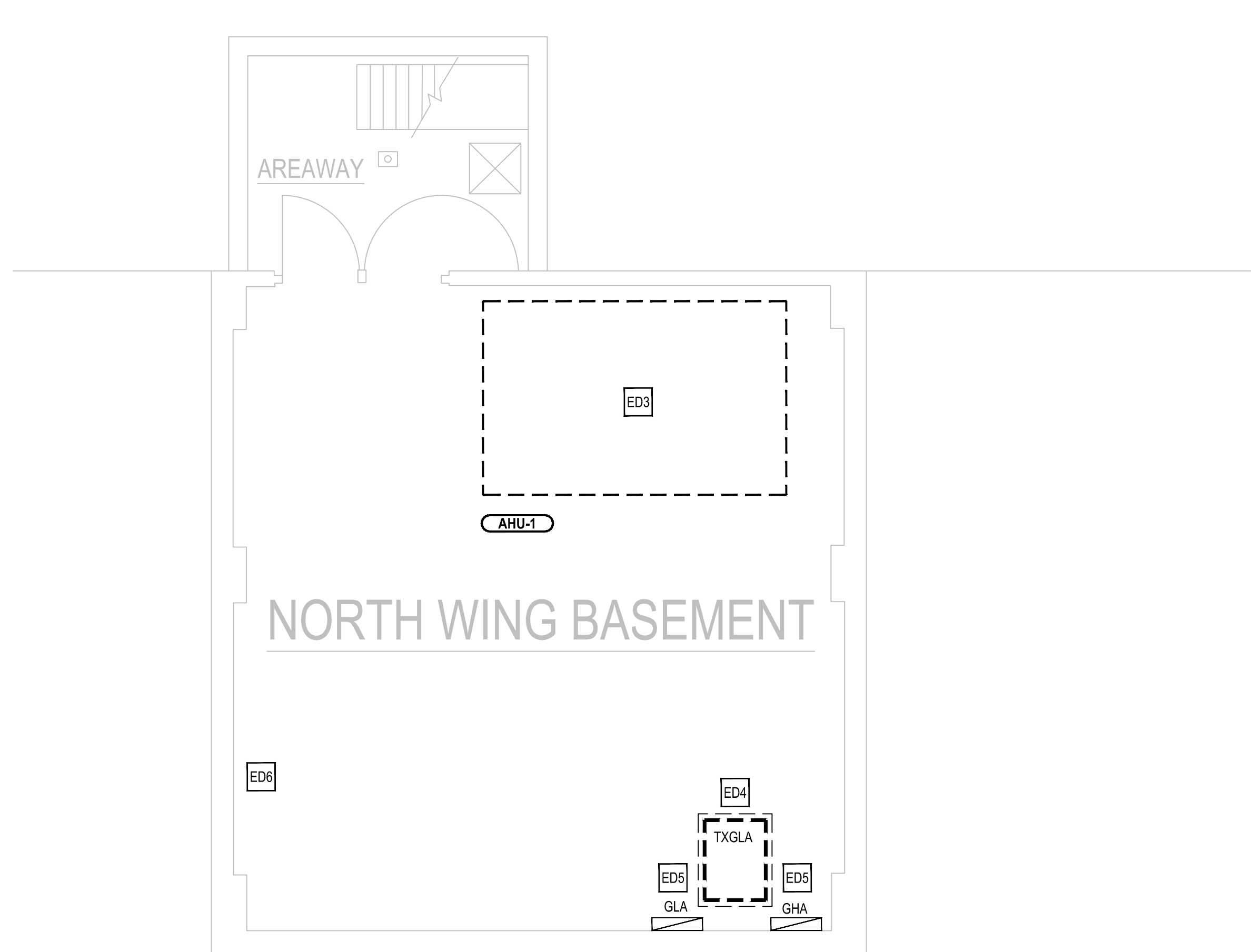
3.2 TESTING

- A. Apply a hydraulic pressure 1-1/2 times the operating pressure and carefully check for leaks.
- B. A hydrostatic pressure test shall be performed before insulating the field joints or burying the system and shall be performed per the Engineer's specifications. The factory recommended pressure test consists of an expansion phase and a test phase. Care shall be taken to ensure all trapped air is removed from the system prior to the test. The expansion phase consists of an initial pressurization period of three hours at one and one-half times the normal system operating pressure. Makeup water shall be added to the system during this period to maintain the desired pressure. The test shall commence immediately after the expansion phase. The pressure shall be reduced by 10 psi and the test clock started. System pressure remaining within 5% of the target test pressure for one hour indicates no leakage has occurred. If the entire test procedure cannot be completed within eight hours of the initial pressurization, the system shall be de-pressurized and allowed to relax for a minimum of eight hours before another test is attempted. The piping system shall be restrained from uncontrolled movement in the event of a failure. Appropriate safety precautions shall be taken to guard against possible injury to personnel in the event of a failure.

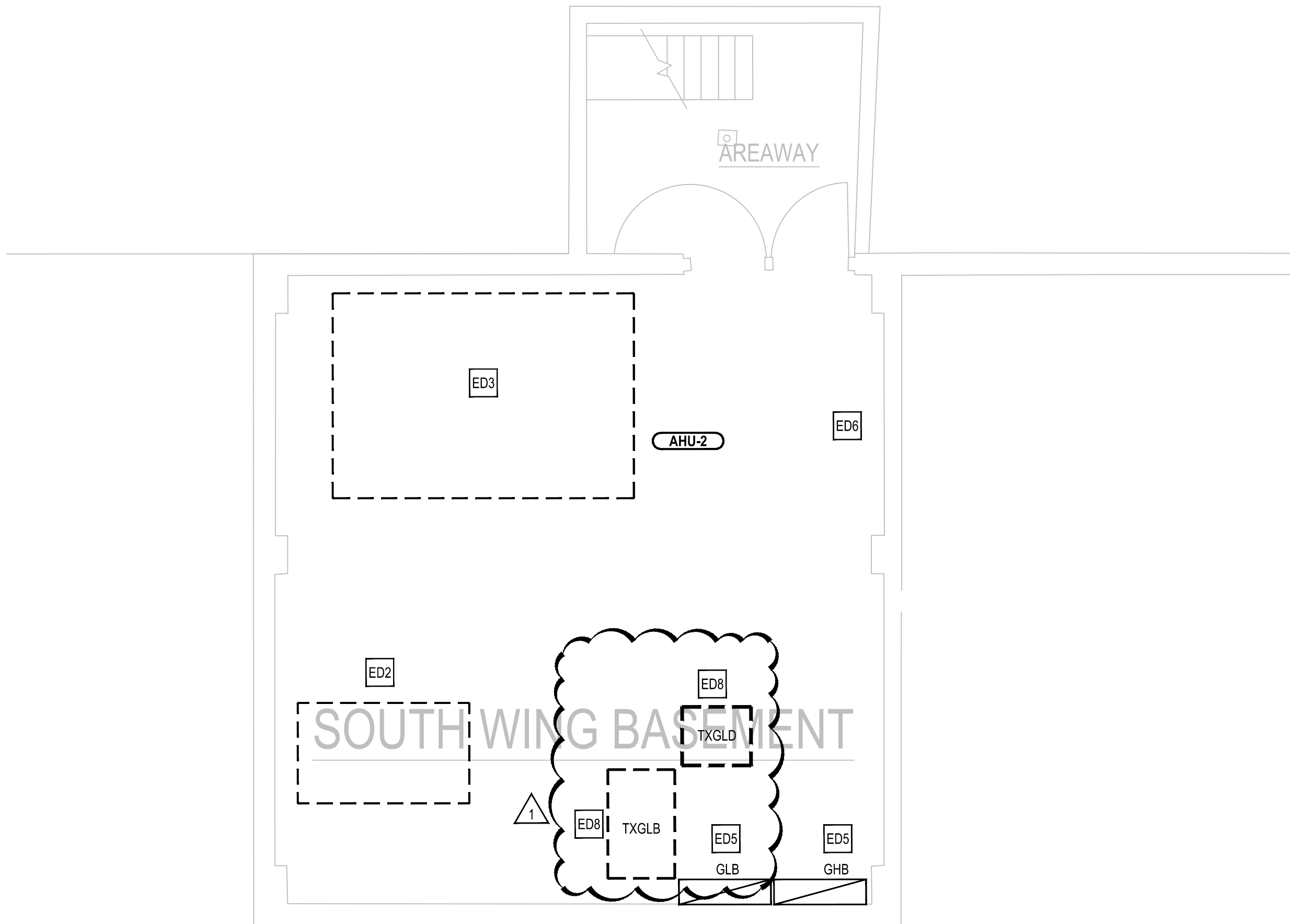
HVAC RENOVATION GRIFFITH & KERR HALL
STEPHEN F. AUSTIN
NACOGDOCHES, TEXAS

- C. Field service will be provided by a certified manufacturer's representative or company field service technician. The technician will be available at the job to check unloading, storing, and handling of pipe, joint installation, pressure testing, and backfilling techniques. This service will be added into the cost as part of the project technical services required by the pre-insulated pipe manufacturer.
- D. Repair all leaks and retest the system until proved watertight.
- E. Clean strainers after start-up.

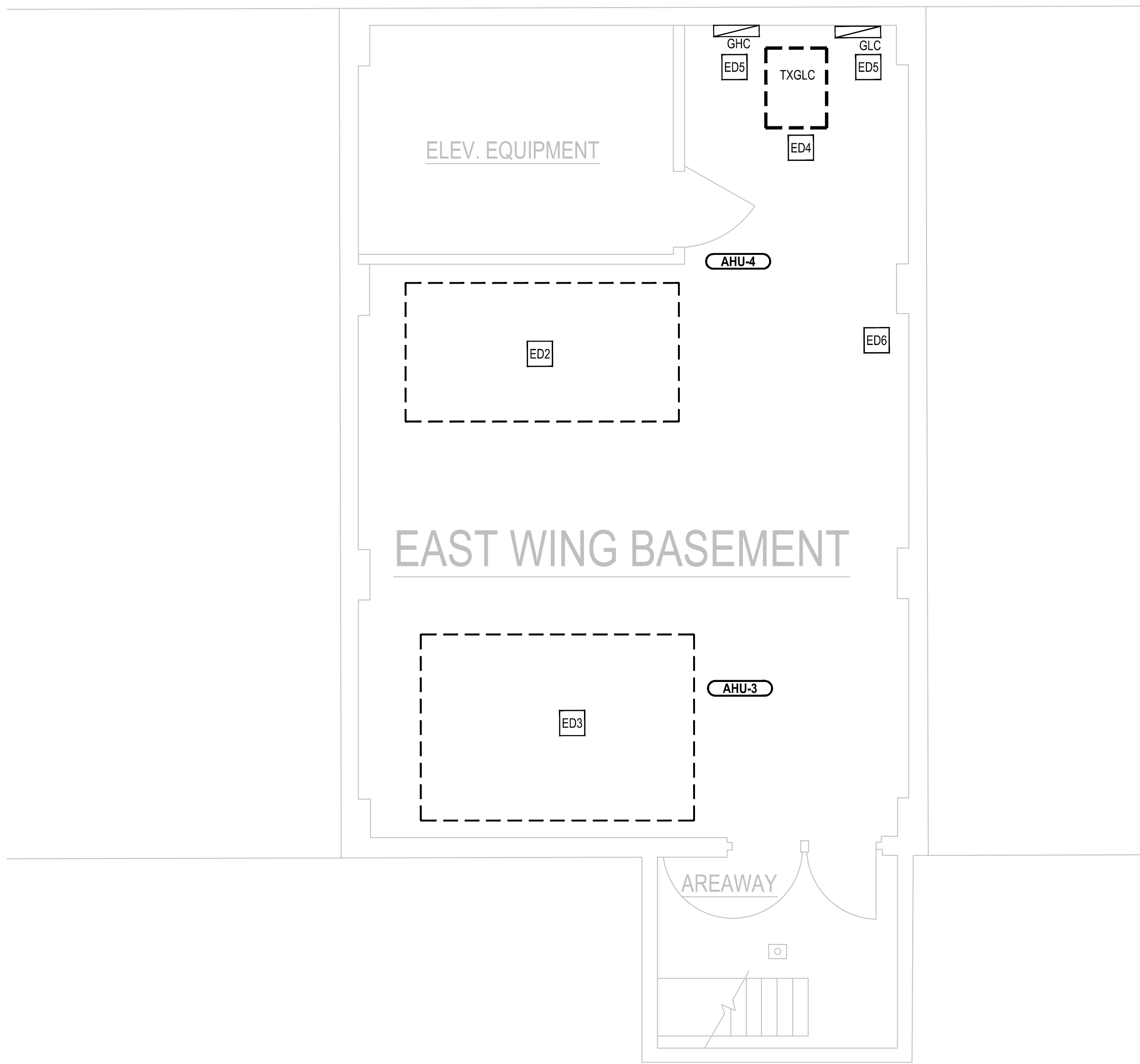
END OF SECTION



1 ELECTRICAL DEMOLITION BASEMENT NORTH WING
1/4"=1'-0"



2 ELECTRICAL DEMOLITON BASEMENT SOUTH WING
1/4"=1'-0"



3 ELECTRICAL DEMOLITION BASEMENT EAST WING
1/4"=1'-0"

ELECTRICAL GENERAL NOTES

(SOME NOTES MAY NOT BE USED)

- SEE SHEET EP7.01 FOR GENERAL NOTES AND PLAN NOTES APPLICABLE TO THE ENTIRE DRAWING SET.

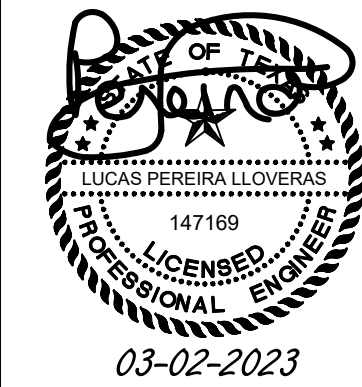
ELECTRICAL DEMOLITION PLAN NOTES

(SOME NOTES MAY NOT BE USED)

- ED2 EXISTING HVAC UNIT TO BE REMOVED AND REPLACED. EXISTING CIRCUIT SHALL REMAIN IN PLACE AND POWER NEW HVAC UNIT WHERE IT IS LOCATED.
- ED3 EXISTING HVAC UNIT TO BE REMOVED AND REPLACED. REMOVE EXISTING ELECTRICAL BACK TO SOURCE. TAG BREAKER AS SPARE.
- ED4 EXISTING TRANSFORMER TO BE REMOVED AND REPLACED. REMOVE EXISTING PRIMARY AND SECONDARY FEEDERS BACK TO SOURCE.
- ED5 EXISTING PANEL TO REMAIN IN PLACE AND OPERATIONAL.
- ED6 REMOVE AND DISCARD EXISTING ABANDONED CONTROLS ON THIS WALL
- ED8 EXISTING TRANSFORMER TO BE REMOVED AND REPLACED. EXISTING PRIMARY AND SECONDARY FEEDERS SHALL REMAIN IN PLACE AND OPERATIONAL.

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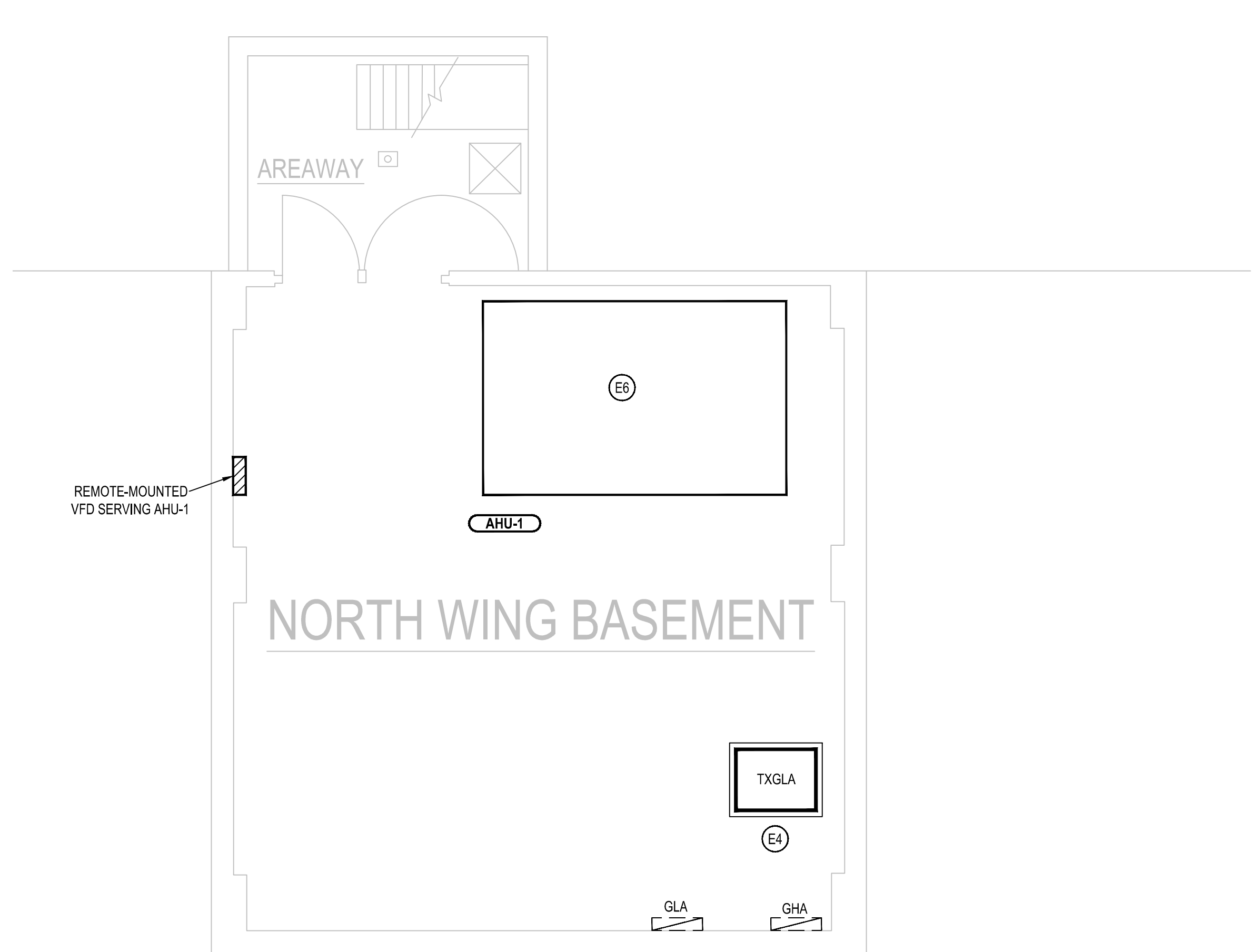
ISSUE DATE

MARCH 2, 2023

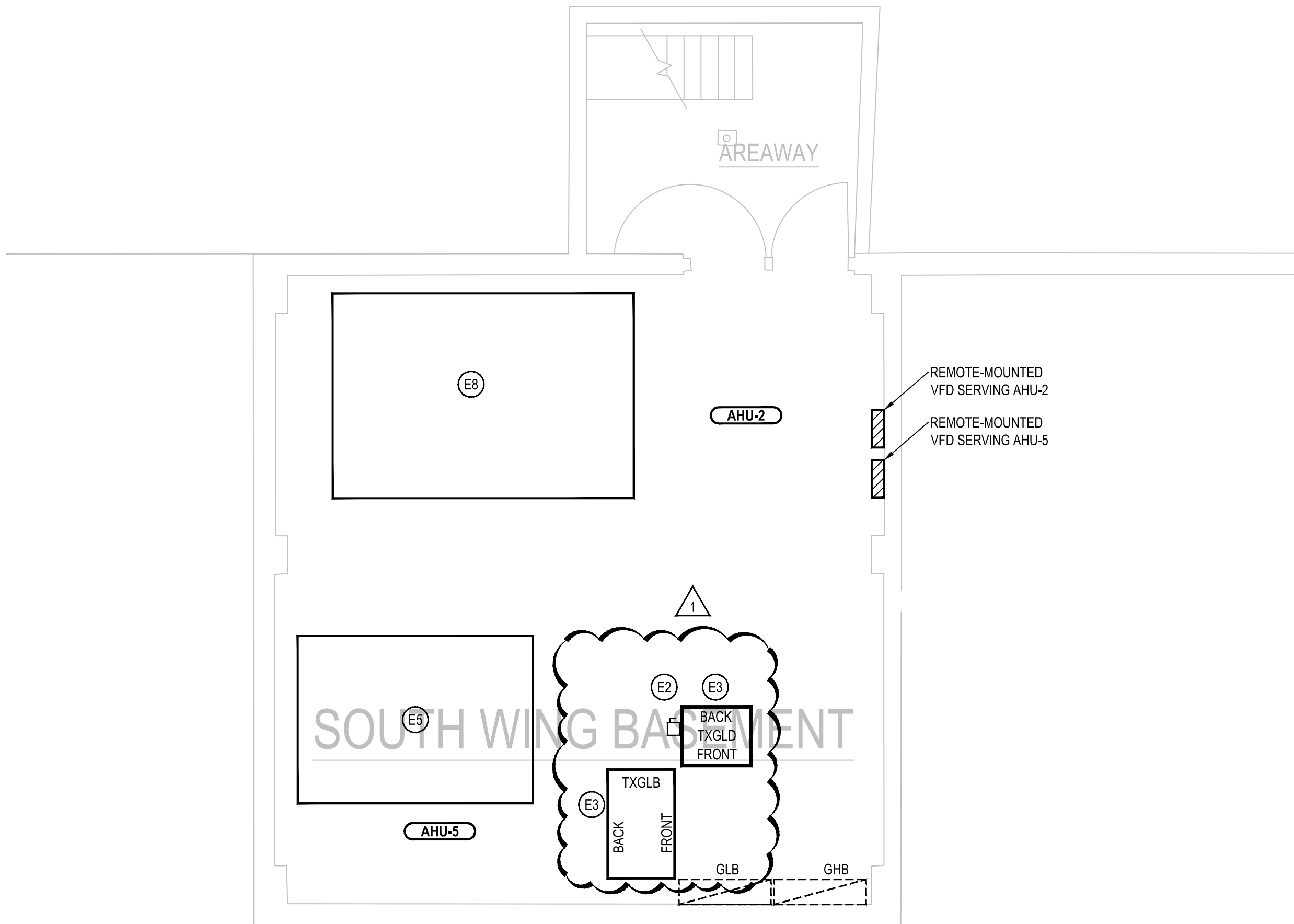
ISSUE STATUS	DATE
50CD	01/25/2023
100CD	03/02/2023
ADDENDUM #2	03/22/2023

SUBMISSION OF BID WILL BE CONSIDERED ACKNOWLEDGMENT THAT THE CONTRACTOR HAS VISITED THE SITE AND HAS VERIFIED ALL EXISTING JOB CONDITIONS AND INCLUDED ANY NECESSARY MODIFICATION TO EXISTING AND NEW WORK REQUIRED FOR INSTALLATION OF A COMPLETE AND WORKING SYSTEM.

1 001 1296 006



1 ELECTRICAL BASEMENT NORTH WING
1/4"=1'-0"



2 ELECTRICAL BASEMENT SOUTH WING
1/4"=1'-0"



3 ELECTRICAL BASEMENT EAST WING
1/4"=1'-0"

ELECTRICAL GENERAL NOTES

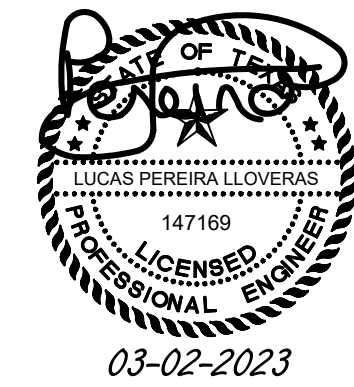
(SOME NOTES MAY NOT BE USED)

1. SEE SHEET EP7.01 FOR GENERAL NOTES AND PLAN NOTES APPLICABLE TO THE ENTIRE DRAWING SET.

ELECTRICAL PLAN NOTES

(SOME NOTES MAY NOT BE USED)

- E2 PROVIDE NEW 400A DISCONNECT WITH 400A FUSES AS SHOWN ON THE SECONDARY SIDE OF TXGLD. PROVIDE POWER TO EXISTING FEEDER FOR PANEL GL1D FROM THE SECONDARY SIDE OF THE DISCONNECT. EXTEND EXISTING ELECTRICAL AS REQUIRED.
- E3 PROVIDE NEW TRANSFORMER AT THIS APPROXIMATE LOCATION. EXTEND AND MODIFY EXISTING HOUSKEEPING PAD AS REQUIRED. REFER TO RISER DIAGRAM FOR FEEDER AND MORE INFORMATION. RESPECT ALL MANUFACTURER AND NEC CLEARANCE REQUIREMENTS.
- E4 PROVIDE NEW TRANSFORMER AT THIS APPROXIMATE LOCATION. PROVIDE NEW HOUSKEEPING PAD AS REQUIRED. DEMOLISH OLD HOUSKEEPING PAD. REFER TO RISER DIAGRAM FOR FEEDER AND MORE INFORMATION. RESPECT ALL MANUFACTURER AND NEC CLEARANCE REQUIREMENTS.
- E5 NEW AIR HANDLER AT THIS APPROXIMATE LOCATION TO REPLACE DEMOLISHED AH. PROVIDE POWER TO NEW AH FROM EXISTING CIRCUIT THAT PROVIDED POWER TO DEMOLISHED AH. EXTEND ELECTRICAL AS REQUIRED. COORDINATE WITH MECHANICAL CONTRACTOR FOR EXACT VFD LOCATION AND REQUIREMENTS.
- E6 NEW AIR HANDLER AT THIS APPROXIMATE LOCATION TO REPLACE DEMOLISHED AH. PROVIDE POWER TO NEW AH FROM EXISTING PANEL GHA. PROVIDE NEW 3P 40A BREAKER. USE #8 WIRE. COORDINATE WITH MECHANICAL CONTRACTOR FOR EXACT VFD LOCATION AND REQUIREMENTS.
- E7 NEW AIR HANDLER AT THIS APPROXIMATE LOCATION TO REPLACE DEMOLISHED AH. PROVIDE POWER TO NEW AH FROM EXISTING PANEL GLC. PROVIDE NEW 3P 40A BREAKER. USE #8 WIRE. COORDINATE WITH MECHANICAL CONTRACTOR FOR EXACT VFD LOCATION AND REQUIREMENTS.
- E8 NEW AIR HANDLER AT THIS APPROXIMATE LOCATION TO REPLACE DEMOLISHED AH. PROVIDE POWER TO NEW AH FROM EXISTING PANEL GHB. PROVIDE NEW 3P 40A BREAKER. USE #8 WIRE. COORDINATE WITH MECHANICAL CONTRACTOR FOR EXACT VFD LOCATION AND REQUIREMENTS.



ISSUE DATE

MARCH 2, 2023

ISSUE STATUS	DATE
50CD	01/25/2023
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ADDENDUM #2	03/22/2023

KEY PLAN

EMA JOB #: 1-001-1296-006

DRAWN BY: LPL

CHECKED: QS

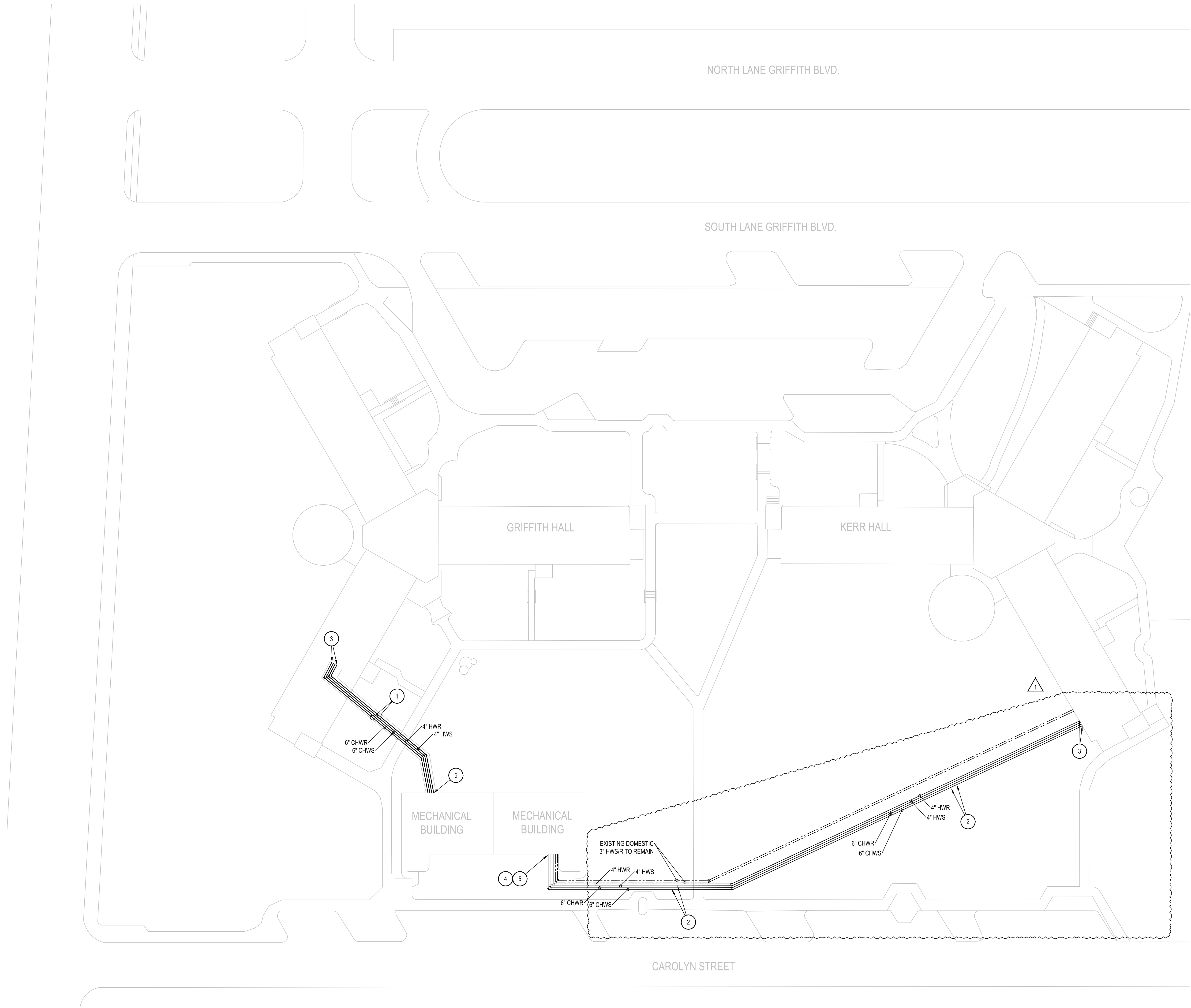
ELECTRICAL BASEMENT
FLOOR PLAN

SHEET NUMBER

EP1.10

SUBMISSION OF BID WILL BE CONSIDERED ACKNOWLEDGMENT THAT THE CONTRACTOR HAS VISITED THE SITE AND HAS VERIFIED ALL EXISTING JOB CONDITIONS AND INCLUDED ANY NECESSARY MODIFICATION TO EXISTING AND NEW WORK REQUIRED FOR INSTALLATION OF A COMPLETE AND WORKING SYSTEM.

1 001 1296 006



1 MECHANICAL SITE PLAN
1"=30'-0"

MECHANICAL GENERAL NOTES

1. SEE SHEET MH7.01 FOR MECHANICAL GENERAL NOTES APPLICABLE TO THE ENTIRE DRAWING SET.

MEP PLAN NOTES

- 1 REMOVE AND DISCARD EXISTING CHW/HW PIPING WITHIN TUNNEL FROM MECHANICAL PLANT TO GRIFFITH HALL AND REPLACE WITH NEW HDPE PIPING. TIE-INTO EXISTING PIPING RISERS WITHIN BUILDING.
- 2 REMOVE AND DISCARD EXISTING TRENCHED CHW/HW PIPING FROM MECHANICAL PLANT TO KERR HALL AND REPLACE WITH NEW HDPE PIPING. TIE-INTO EXISTING PIPING RISERS WITHIN BUILDING.
- 3 CONNECT NEW CHW/HW PIPING TO EXISTING LINES WITHIN BUILDING.
- 4 PROVIDE NEW CHW/HW PIPING WITH PROTECTIVE CONCRETE COVERING AT PENETRATION OF PLANT EXTERIOR.
- 5 CONNECT TO NEW CHW/HW PIPING WITHIN CENTRAL PLANT.

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HVAC RENOVATION
GRIFFITH & KERR HALL
Stephen F. Austin
NACOGDOCHES, TX

EMA JOB #: 1-001-1296-006

DRAWN BY: LRU

CHECKED: QS

MECHANICAL SITE PLAN

SHEET NUMBER

MH1.30

SUBMISSION OF BID WILL BE CONSIDERED ACKNOWLEDGMENT THAT THE CONTRACTOR HAS VISITED THE SITE AND HAS VERIFIED ALL EXISTING JOB CONDITIONS AND INCLUDED ANY NECESSARY MODIFICATION TO EXISTING AND NEW WORK REQUIRED FOR INSTALLATION OF A COMPLETE AND WORKING SYSTEM.

1 001 1296 006

MECHANICAL GENERAL NOTES

1. SEE SHEET MH7.01 FOR MECHANICAL GENERAL NOTES APPLICABLE TO THE ENTIRE DRAWING SET.

MECHANICAL PLAN NOTES

- (M1) INSTALL NEW CHILLER, EXTEND/MODIFY BASE AS REQUIRED.
- (M2) INSTALL NEW CHILLED WATER PUMP.
- (M3) EXTEND EXISTING EQUIPMENT PAD AS SHOWN TO HOUSE NEW EQUIPMENT.
- (M4) INSTALL SELF CONTAINED REFRIGERANT DETECTOR SUITABLE FOR DETECTION OF R-134A AT REQUIRED ELEVATION IN THIS VICINITY AND INTERLOCK WITH NEW REFRIGERANT MONITOR.
- (M5) INSTALL EXHAUST FAN ON ROOF, REUSE EXISTING ROOF RELIEF PENETRATION, INTERLOCK WITH NEW EMERGENCY REFRIGERANT EXHAUST MONITORING SYSTEM. PROVIDE NEW ROOF PENETRATION AND ROOF CURB, ROUTE 20" DUCTWORK DOWN FROM FAN.
- (M6) 20" EMERGENCY REFRIGERANT EXHAUST DUCTWORK DOWN ABOVE CHILLER.
- (M7) MODIFY EXISTING WALL PENETRATIONS TO ACCOMMODATE NEW PIPE. SEAL WEATHER TIGHT.
- (M8) TRANSITION FROM STEEL PIPE TO HDPE PIPE. HDPE PIPE WILL BE RAN UNDERGROUND TO ASSIGNED BUILDINGS. REFER TO SITE PLAN FOR PIPE ROUTING AND CONNECTION POINTS. CHILLED WATER HDPE PIPING TO BE 6". HOT WATER HDPE PIPING TO BE 4".

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HVAC RENOVATION
GRIFFITH & KERR PLANT
Stephen F. Austin
NACOGDOCHES, TX

KEY PLAN

EMA JOB #: 1-001-1296-006

DRAWN BY: LRU

CHECKED: QS

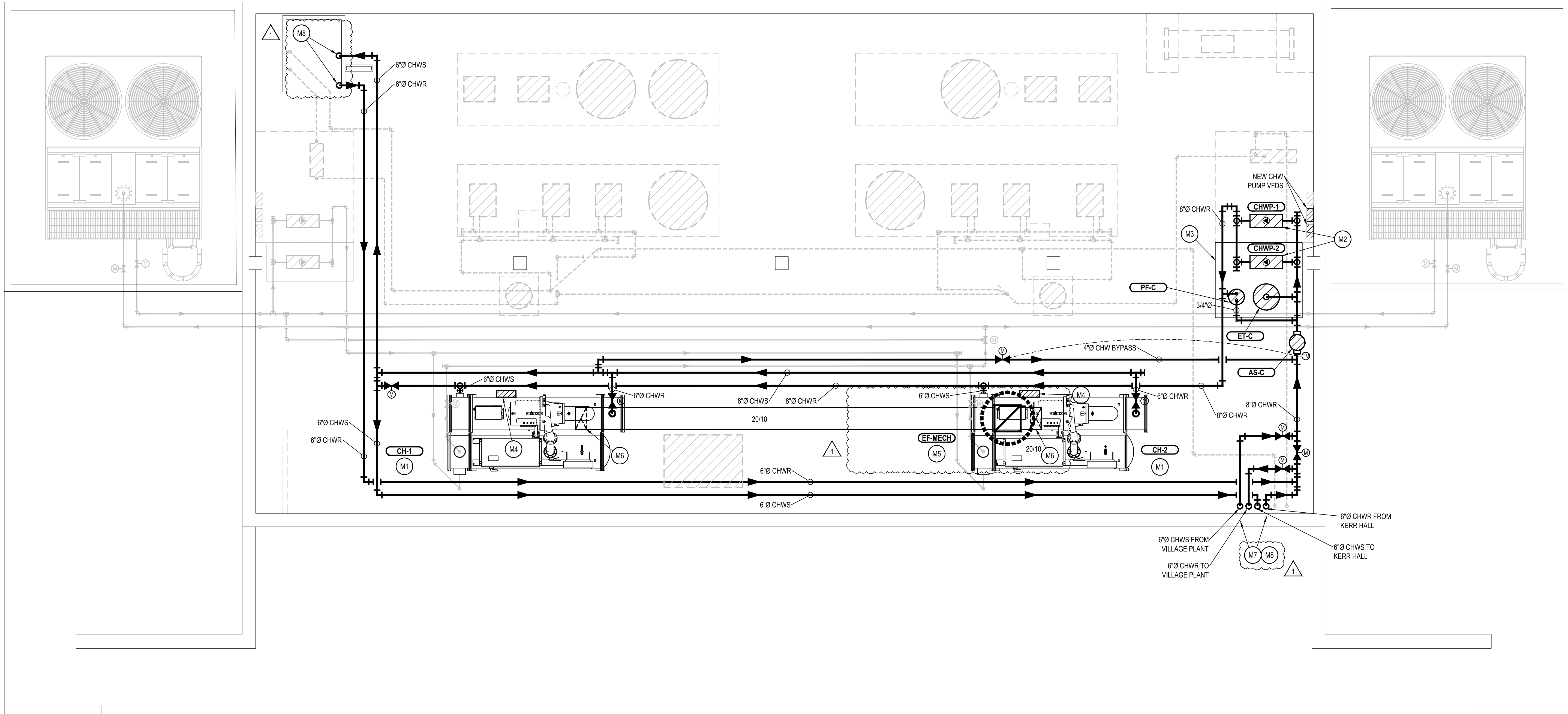
MECHANICAL PLANT
CHILLED WATER PIPING
FLOOR PLAN

SHEET NUMBER

MH2.31

SUBMISSION OF BID WILL BE CONSIDERED ACKNOWLEDGMENT THAT THE CONTRACTOR HAS VISITED THE SITE AND HAS VERIFIED ALL EXISTING JOB CONDITIONS AND INCLUDED ANY NECESSARY MODIFICATION TO EXISTING AND NEW WORK REQUIRED FOR INSTALLATION OF A COMPLETE AND WORKING SYSTEM.

1 001 1296 006



1 MECHANICAL PLANT CHILLED WATER PIPING FLOOR PLAN
1/4"=1'-0"

MECHANICAL GENERAL NOTES

1. SEE SHEET MH7.01 FOR MECHANICAL GENERAL NOTES APPLICABLE TO THE ENTIRE DRAWING SET.

MECHANICAL PLAN NOTES

- M1 INSTALL NEW CONDENSER WATER PUMP.
- M2 INSTALL NEW COOLING TOWER. ALL EXTERIOR PIPING TO BE INSULATED. EXTEND/MODIFY EXISTING MAKE-UP WATER TO SERVE NEW COOLING TOWER WITH NEW 1 1/2" LINE. PROVIDE AND INSTALL NEW 2" DRAIN PIPE TO NEAREST DRAIN.
- M3 EXTEND EXISTING EQUIPMENT PAD AS SHOWN TO HOUSE NEW EQUIPMENT.
- M4 RECONNECT EXISTING COOLING TOWER CHEMICAL TREATMENT SYSTEM TO NEW CONDENSER WATER PIPE.
- M5 MODIFY EXISTING WALL PENETRATIONS TO ACCOMMODATE NEW PIPE. SEAL WEATHER TIGHT.

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HVAC RENOVATION
GRIFFITH & KERR PLANT
Stephen F. Austin
NACOGDOCHES, TX

KEY PLAN

EMA JOB #: 1-001-1296-006
DRAWN BY: LRU
CHECKED: QS

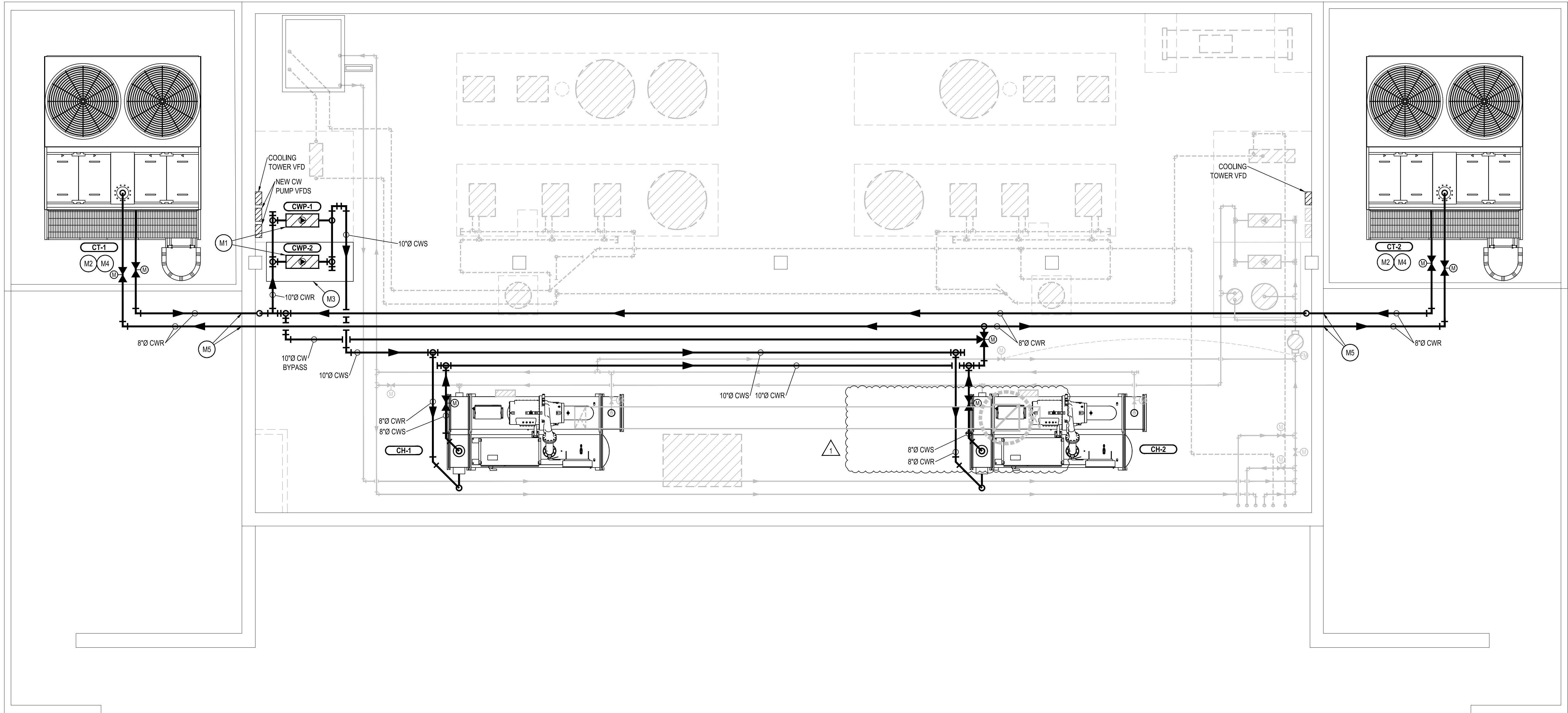
MECHANICAL PLANT
CONDENSER WATER
PIPING FLOOR PLAN

SHEET NUMBER

MH2.32

SUBMISSION OF BID WILL BE CONSIDERED ACKNOWLEDGMENT THAT THE CONTRACTOR HAS VISITED THE SITE AND HAS VERIFIED ALL EXISTING JOB CONDITIONS AND INCLUDED ANY NECESSARY MODIFICATION TO EXISTING AND NEW WORK REQUIRED FOR INSTALLATION OF A COMPLETE AND WORKING SYSTEM.

1 001 1296 006



1 MECHANICAL PLANT CONDENSER WATER PIPING FLOOR PLAN
1/4"=1'-0"

**EXHIBIT J
CERTIFIED EMA ENGINEERING &
CONSULTING, INC DOCUMENT DATED
MARCH 22, 2023 TITLED ADDENDUM
NUMBER TWO TO PLANS FOR**

**HVAC RENOVATIONS FOR
GRIFFITH AND KERR HALL
STEPHEN F. AUSTIN**

EMA PROJECT NUMBER: 1 001 1269 006

MARCH 22, 2023

PAGE 1

ADDENDUM NUMBER TWO TO PLANS FOR

HVAC RENOVATIONS FOR
GRIFFITH AND KERR HALL
STEPHEN F. AUSTIN

EMA PROJECT NUMBER: 1 001 1269 006

ENGINEER: EMA Engineering & Consulting
328 South Broadway
Tyler, Texas 75702



This addendum forms a part of the Contract Documents and modifies the original Construction Documents dated March 2, 2023, as noted below. Careful note of this Addendum shall be taken by all parties of interest so that proper allowance is made in all computations, estimates and Contracts. This Addendum supersedes all Instructions pertaining to these items. The Proposer shall acknowledge receipt of this Addendum in the space provided on the Proposal Form. Failure to do so may subject the Proposer to disqualification.

This Addendum consists of 3 Pages and 3 Attachments.

GENERAL INFORMATION

- A. Please refer to the scope summary provided by Texas Air Systems attached to this Addendum which lists the equipment to be pre-purchased by the Owner through Texas Air Systems. As noted on sheet MH8.31, the Mechanical Contractor will be responsible for receiving, storing, and installing this equipment.
- B. HDPE piping is to only be used on pipe runs from the Plant to Griffith and Kerr Hall, respectively.

PRE-BID QUESTIONS

Listed below are the received Pre-bid questions and their answers:

- 1. The bid called for steel piping. Do you want steel piping or HDPE piping for both chilled and hot?
 - a. HDPE piping is to be used from the plant to the dorm crawlspaces. Steel piping shall be used within the plant.
- 2. Is the tunnel ventilated?
 - a. Yes, and lit too.

3. Do you have dates on when the equipment will be delivered? Will there be communication on when the equipment is delivered to the selected vendor?
 - a. Communication with awarded vendor will happen immediately. We understand it may be hard to give us a specific schedule, but you can give more like a range of dates. We will have to work with the Residence Life department on scheduling. There are small pockets of time during the year but SFA will not be taking buildings offline until Summer 2024.
4. Are submittals being provided by the college for the equipment?
 - a. Texas Air will provide SFA with an equipment list and SFA will provide it in the addendum.
5. When is the final completion date?
 - a. Final completion will be October 2024. Substantial completing will be August 2024.
6. Is the Final Completion date final?
 - a. SFA understands that some items are hard to come by and items can be placed when they come in if it is after the completion date.
7. Do we submit a construction schedule with the bid?
 - a. Yes.
8. MH701 detail mentions something about Wisely Hall. Is this a mistake?
 - a. It is an error and has been removed in this Addendum.
9. Will we put the value vault itself in?
 - a. No.
10. Does the central plant only service the two buildings?
 - a. Yes.
11. Do we haul off the two chillers and the two cooling towers?
 - a. Yes, but everything else will be put out in roll off containers here at SFA. SFA has two forklifts. One can hold 6,000 lbs. and one can hold 3,000 lbs. We can assist when needed with those two forklifts. Every other piece of equipment will need to be provided by vendor. (i.e., Cherry picker, etc.)
12. Where is the staging area?
 - a. The parking lot across from the plant will be the staging area. To be fenced and locked off.
13. Is start up included?
 - a. Manufacturer to start up.
14. Extent of piping in Kerr and Griffith being replaced?
 - a. Piping in crawlspace.

SPECIFICATIONS

Section 26 22 13 Low-Voltage Distribution Transformers

A. Part 2.1 MANUFACTURERS

1. The only approved manufacturer shall be Powersmiths. Contact Eric Ewing for pre-approved quote. eric.ewing@powersmiths.com (832-349-2847).

Section 23 21 14 Preinsulated Underground Piping

- A. The original Section 23 21 14 issued with the Construction Documents shall be removed in its entirety and replaced with the attached, revised copy of Section 23 21 14.

DRAWINGS

Sheet ED1.10

- A. Refer to sheet ED1.10 reissued in its entirety.

- B. Note ED8 has been modified to reflect both primary and secondary feeders to remain. Note ED8 has been applied to TXGLB, as well as TXGLD.

Sheet EP1.10

- A. Refer to sheet EP1.10 reissued in its entirety.
- B. Added text in TXGLB and TXGLD to clarify orientation of the transformers to meet NEC.

Sheet EP8.13

- A. Refer to sheet EP8.13 reissued in its entirety.
- B. Dry Type Low Voltage Transformers Schedule: Added note at the bottom of the schedule. Transformers shall be Powersmiths, contractor to coordinate with manufacturer for custom designed transformers.
- C. Riser Diagram: TXGLB and TXGLD primary and secondary feeders have been modified as existing to remain. New feeder from TXGLD to 400A Disconnect.

Sheet MH1.30

- A. Refer to sheet MH1.30 reissued in its entirety.
- B. The routing of trenched hydronic piping to Kerr Hall has been revised.

Sheet MH2.31

- A. Refer to sheet MH2.31 reissued in its entirety.
- B. Plan notes added to indicate the transition from steel pipe to HDPE when exiting the Plant footprint.
- C. The location of the emergency exhaust fan EF-MECH has been revised to reuse an existing roof relief over chiller CH-2. Plan notes has also been adjusted accordingly.

Sheet MH2.32

- A. Refer to sheet MH2.32 reissued in its entirety.
- B. The location of the emergency exhaust fan EF-MECH has been revised to reuse an existing roof relief over chiller CH-2.

Sheet MH7.01

- A. Detail #12 – VAULT FOR WISELY has been removed from the set.

Sheet MH7.02

- A. Detail #4 has been edited to remove trenching sections for pipe sizes that will not be used. Section details for 12" CHW and 10" HW, 10" CHW and 8" HW, and 8" CHW and 6" HW piping have been removed. Only the section depicting 6" CHW and 4" HW piping is to remain.

END OF ADDENDUM NO. 2

**EXHIBIT K
SCOPE SUMMARY PROVIDED BY TEXAS
AIR SYSTEMS**

SCOPE SUMMARY

Date: 3/22/2023

Project: SFA Kerr and Griffith Dorms

Engineer: EMA Engineering

Thru Addendum #1



PRICING SUMMARY – Griffith Hall

DESCRIPTION	QTY	TAGGING
Temtrol Multizone Air Handling Units	5	AHU – 1 thru 5
ETI Single Zone Air Handling Unit	1	AHU – 6
Bioclimatic Air Ionizers	Lot	AHU – 1 thru 6
ABB Variable Frequency Drives	5	AHU – 1 thru 5
Loren Cook Exhaust Fan	1	MECH
Griswold Automatic Balancing Valve and Strainer Packages	12	AHU-1 THRU AHU-5 AHU-6

PRICING SUMMARY – Kerr Hall

DESCRIPTION	QTY	TAGGING
Temtrol Multizone Air Handling Units	5	AHU – 1 thru 5
ETI Single Zone Air Handling Unit	1	AHU – 6
Bioclimatic Air Ionizers	Lot	AHU – 1 thru 6
ABB Variable Frequency Drives	5	AHU – 1 thru 5
Loren Cook In-Line Exhaust Fan	1	ELEC
Griswold Automatic Balancing Valve and Strainer Packages	12	AHU-1 THRU AHU-5 AHU-6

PRICING SUMMARY – Central Plant

DESCRIPTION	QTY	TAGGING
York Magnetic Bearing Chiller	2	CH – 1, CH – 2
ABB Variable Frequency Drives	6	CHWP-1, CHWP-2, CWP-1, CWP-2, CT – 1, CT – 2
BAC Crossflow Cooling Tower	2	CT – 1, CT – 2
Loren Cook Exhaust Fan	1	MECH
Armstrong Vertical In-Line Split Coupled Pumps	4	CHWP-1, CHWP-2, CWP-1, CWP-2
Armstrong Expansion Tank	1	ET-C
Spirotherm Air and Dirt Separator	1	AS-C
Neptune Chemical Pot Feeder	1	PF-C

YORK WATER COOLED MAGNETIC BEARING CENTRIFUGAL CHILLER

TAG: CH-1, CH-2

Model **YMC2**, water-cooled, centrifugal compressor chiller designed for **460/3/60** power and complete as follows:

- **400 Ton Chiller**
- Single stage, **magnetic bearing**, centrifugal compressor
- **VFD with integral harmonic filter**
- VFD cooled by condenser water
 - Sediment accumulator
- Single point electrical connection with circuit breaker
- Full charge **R-134a** refrigerant
- Evaporator Shell
 - 3-pass shell-and-tube insulated
 - 3/4" closed cell insulation
 - Grooved nozzles
 - Marine water box
 - Single side water box hinge
- Condenser Shell
 - 2-pass shell-and-tube
 - Grooved nozzles
 - Marine water box
 - Single side water box hinge
- Compressor isolation valve
- Spring loaded pressure relief valves
- Flow switch for both evaporator and condenser – **Factory installed & wired**
- Neoprene isolators – **Field installed by others**
- Microprocessor unit controller with BACnet MS/TP communication protocol
- **Ten (10) year entire unit PARTS AND LABOR warranty (includes refrigerant)**
- Factory Start-up by Johnson Controls Service

Notes & Exclusions:

- Does NOT include factory witness testing
- Does NOT include external acoustic treatment
- Does NOT include installation, hoisting, piping and/or wiring.
- Does NOT include of disassembly/reassembly of chiller if required by installation.
- Does NOT include insulation of end sheets, water boxes, water nozzles. Evaporator barrel insulation is the only insulation provided.
- Does NOT include refrigerant monitor or SCBA
- Does NOT refrigerant monitor battery backup

TENTROL AIR HANDLING UNIT

Model **ITF**, indoor air-handling unit, and complete with the following features and options:

Unit Construction:

- Double wall construction with 3" thick, R-24 foam injected panels
- 16-gauge galvanized steel exterior panels
- 16-gauge floor
- 20-gauge interior and subfloor panels
- Double wall hinged access doors with built-in thermal break design
- Unit ships "knockdown" for field disassembly/reassembly

Unit Components:

Dampers:

- Multizone dampers – **field installed by others – actuators by others**
 - **Linkage field cut by others**

Filters:

- Pre-filter bank with face-loading galvanized steel filter frame
 - 2" MERV 8 Pre-Filter - (2) sets provided

Hot and Chilled Water Coils:

- Coils with copper tubes and aluminum fins
- All coils provided with stainless steel coil casing
- All coils provided with male pipe thread Schedule 40 Red Brass connections
- Triple pitch, stainless steel drain pan w/ MPT drain connection in cooling coil sections

Supply & Return Fans:

- Plenum fan assemblies
- Zero Pressure loss FBD backdraft dampers on each fan

Motors:

- 460V/3Ph TEAO direct drive motors
- Motor Overload Panel provided per fan bank
- **ABB ACH580 NEMA 1 VFD Package with bypass provided per fan bank – field mounted and wired by others**

Start-Up:

- Reassembly supervision by Texas AirSystems included – **1 day total**
- Start up by factory authorized technician

Warranty:

- 1-year unit parts warranty

Notes & exclusions:

- Mixing boxes or RA/OA dampers/actuators not included.
- Disconnect not included
- Viewports, lights, switches, convenience outlets, UV lights not included
- Airflow measurement/stations not included
- Controls, control valves, sensors, air blenders, damper actuators, and smoke detectors, are not included.
- Wiring of controls or VFDs not included.
- External vibration isolation
- Labor warranty not included

ENVIRO-TEC FAN COIL UNITS

Model VDD fan coil units come complete with the following:

- 208/3/60 electrical
- Top discharge
- Double wall G90 galvanized steel cabinet construction
- Foam insulation
- Access door – hinged with lift and turn fasteners
- Hot water preheat and chilled water coil
 - CW stainless steel coil casing
 - Manual air vent
- Stainless steel drain pan
- MERV 8 filter – 2 sets
- Direct drive, EC motor type
 - **2-10 VDC control signal by others**

Notes & exclusions:

- Start up not included
- Mixing boxes or RA/OA dampers/actuators not included.
- Disconnect not included
- Secondary drain pans, condensate switch or pump
- External vibration isolation
- Viewports, lights, switches, convenience outlets, UV lights not included
- Controls, control valves, sensors, air blenders, damper actuators, and smoke detectors, are not included.
- Labor warranty not included

BIOCLIMATIC INDOOR DUCT MOUNT BI-POLAR IONIZATION UNITS

Model AOX Bi-polar Ionization Generators comes complete as follows:

- Low-profile, needlepoint output
- Aluminum enclosure
- 16 ga. galvanized steel mounting plate
- Automatic fault reset
- Circuit breaker/disconnect (on/off) switch

NOT INCLUDED: BACNET INTERFACE, HANDHELD ION COUNTER, TRANSFORMERS, INSTALLATION, WIRING, STARTUP, CONTROL WIRING (24 VOLT, 1 PHASE, 60 HZ ELECTRIC SERVICE IS REQUIRED), LABOR WARRANTY, OR CONTROLS NOT MENTIONED ABOVE.

ABB VARIABLE FREQUENCY DRIVES

Model ACH580 variable frequency drives comes complete as follows:

- 460/3/60 power
- 100kA Short Circuit Current Rating (SCCR)
- Microprocessor based Pulse Width Modulated (PWM) adjustable speed AC drive
- IGBT power switching technology
- Full graphic multifunction control panel with LCD display in plain English
- **NEMA-1** rated enclosure for outdoor mounting and application
- Operating range from 5 to 140°F
- (2) programmable analog inputs/outputs
- (6) programmable digital inputs / (3) programmable relay outputs
- 5% input line impedance for harmonic mitigation
- **Bypass, Circuit breaker & service switch**
- Integral Johnson Controls N2, Siemens FLN, Modbus & BACnet protocol
- One (1) year complete unit warranty – parts only
- Start up by ABB Factory Authorized technician

NOT INCLUDED: Extended warranty, installation, wiring, labor warranty

BAC CROSSFLOW COOLING TOWER

TAG: CT-1, CT-2

BAC model S15E crossflow induced draft cooling tower model **Series 1500** certified to cool 1200 GPM of water from 95F to 85F at 78F WB and complete as follows:

- **304 Stainless steel construction**
- FRP casing panels and louvers
- PVC fill
- Air inlet louvers
- Standard fan system with (2) 15HP fan motors
- Electric basin heaters with copper heating elements sized for 0F ambient.
 - Low water cutout
 - Heater control panel including contactor, disconnect – **field wired by others**
- Mechanical float valve for makeup water control
- **Top inlet with balancing valves**
- Mechanical vibration switch 120V – **field wired by others**
- Single point piping connection per cell
- **Aluminum ladder with safety cage & gate**
- **Internal walkway**
- Associated VFD Start up by Texas AirSystems
- 1 year complete unit warranty – parts only
- 5 year louver to louver warranty – parts only

NOTE(s):

1. The fan guards, ladders/safety cages and fan deck handrails to ship loose and are to be field installed by others.
2. Mechanical contractor to confirm structural support and anchorage configuration.

NOT INCLUDED: Labor warranty, Disconnects, external access platforms, basin sweeper, flume boxes, , piping/valves, motor shaft grounding rings, installation of any kind, controls or controls integration, installation/wiring of VFDs, installation/wiring of heater control panels, installation/wiring of mechanical vibration switch.

COOK SQUARE IN-LINE EXHAUST FANS

Cook, Model **SQND** Square in-line fans, direct drive exhaust fans designed for **120V/1Ph/60Hz** power and complete with the following:

- Galvanized steel housing
- Non-overloading, backward inclined, aluminum wheel
- Fan speed controller
- Gravity operated backdraft damper
- NEMA-1 toggle disconnect switch
- RIS Isolators – **all thread by others**

Exclusions: Controls, CO/Gas detectors, thermostats, interlocks, and wall switches

Loren Cook Roof Mounted Exhaust Fans

Loren Cook Model **ACRUD-EC** roof mounted direct drive up-blast exhaust fan designed for **120V/1Ph/60Hz** power and complete with the following:

- All aluminum housing
- Removable top cap with stainless steel quick release latches
- Galvanized steel birdscreen
- Non-overloading, backward inclined, aluminum wheel
- Non fused disconnect switch – Factory pre-wired
- EC motor – controls & transformers by others
- 18” high insulated galvanized steel roof curb with damper tray – for **FLAT** builtup roof
- Gravity backdraft damper

Exclusions: BMS/EMS control, Installation, wiring, STARTUP, motor starters (only where noted), or controls not mentioned above.

ARMSTRONG SPLIT COUPLED VERTICAL IN-LINE PUMP

TAG: CHWP-1, CHWP-2

Armstrong Model 4300 complete as follows:

- 5x5x8
- Flow: 600 GPM
- Head: 150 FT
- Motor Size: 40 HP
- Motor Enclosure: TEFC
- Speed: 1800 RPM
- 460/3/60
- Suction Guide: SG-65
- Triple Duty Valve: FTV-5FA
- Meets ASHRAE 90.1

ARMSTRONG SPLIT COUPLED VERTICAL IN-LINE PUMP

TAG: CWP-1, CWP-2

Armstrong Model 4300 complete as follows:

- 8x8x10
- Flow: 1200 GPM
- Head: 50 FT
- Motor Size: 30 HP
- Motor Enclosure: TEFC
- Speed: 1800 RPM
- 460/3/60
- Suction Guide: SG-108

- Triple Duty Valve: FTV-8FA
- Meets ASHRAE 90.1

ARMSTRONG BLADDER EXPANSION TANK

TAG: ET-C

Armstrong Model 130-L complete as follows:

- Tank Volume: 35 Gallons
- Heavy Duty Butyl Bladder
- Max Working Temperature: 240°F
- Max Working Pressure: 125 PSI
- ASME Section VIII, Div. 1

SPIROTHERM MODEL VDT-800FA DIRT AND AIR SEPARATOR

TAG: AS-C

Spirotherm Model VDT-800FA complete as follows:

- Spirotube Medium
- 8 Inch Flanged ASME Connections
- Max Working Temperature: 270°F
- Max Working Pressure: 150 PSI

NEPTUNE MODEL DBF-5HP CHEMICAL POT FEEDER

TAG: PF-C

Neptune Model DBF-5HP complete as follows:

- Capacity: 5 Gallons
- Max Working Pressure: 300 PSI
- **Filter Bag Kit NOT Included**

GRISWOLD 2-WAY AUTOMATIC BALANCING VALVE & STRAINER PACKAGE CONTAINING:

TAG: 2" and Smaller

- Griswold Model Isolator R Automatic Balancing Valve complete with Dual P/T Ports, Isolation Ball Valve, and Union
- Griswold Model Isolator S Wye Strainer complete with P/T Port, Isolation Ball Valve, Union, and Hose End Drain Valve
- Griswold Model Isolator U Union with Combined P/T Port and Manual Air Vent (CPTA)

NOTES:

1. Control Valve NOT provided by Texas AirSystems, LLC.
2. Chilled water hook-ups are equipped with extended: P/T ports, air vents, handles, and drain valves for insulation purposes.
3. ProPress Connections and Factory Connection of Control Valves are not included in this quote but are available for an added cost.
4. Three-way hook ups include Model Isolator B Ball Valve with memory stop, Model Isolator U Union, or no additional component for bypass depending on coil detail.

GRISWOLD 2-WAY AUTOMATIC BALANCING VALVE & STRAINER COMBO CONTAINING:

TAG: 2-1/2" and Larger

- Griswold Model Uni-Flange (2-1/2"-3") or Wafer & Butterfly (3"-6") Automatic Balancing Valve complete with Dual Extended P/T ports & Butterfly Valve
- Griswold Model Y Strainer complete with Extended P/T Port, Blow Down Ball Valve, and Butterfly Valve

NOTES:

1. Control Valve NOT provided by Texas AirSystems, LLC.
2. All hook-ups are equipped with extended accessories.
3. Three-way hook-ups include a Butterfly Valve for bypass.

NOTES AND EXCLUSIONS FOR PUMPS, PUMP ACCESSORIES AND HYDRONIC SPECIALTIES:

1. Vibration Isolation and Housekeeping pads are NOT INCLUDED and are by others.
2. Unloading, rigging, installation, wiring, piping, and START-UP (unless specified above) are NOT INCLUDED and are by others.
3. Flue venting by others.
4. Motor starters, controls, t-stats, timers, sensors, mounting, and control wiring are by others.

5. Cleaning shall be by others
6. Any permits (including preparation of the same) and associated fees shall be by others.



STEPHEN F. AUSTIN STATE UNIVERSITY

NACOGDOCHES, TEXAS

PROCUREMENT AND BUSINESS SERVICES

P. O. Box 13030
NACOGDOCHES, TX 75962

REQUEST FOR PROPOSAL

RFP NUMBER

HVAC KERR & GRIFFITH HALL-23

PROPOSAL MUST BE RECEIVED BEFORE:

5:00PM, FRIDAY, MARCH 31, 2023

MAIL PROPOSAL TO:

Stephen F. Austin State University
Procurement and Business Services
P. O. Box 13030, SFA Station
Nacogdoches, TX 75962-3030

HAND DELIVER AND/OR EXPRESS MAIL TO:

Stephen F. Austin State University
Procurement and Business Services
2102 Alumni Drive, Austin Bldg., Room 131
Nacogdoches, TX 75962

Show RFP Number, Due Date and Time on Return Envelope

NOTE: PROPOSAL must be time stamped at **Stephen F. Austin State University**
Procurement and Business Services before the hour and date specified for receipt of proposal.

REFER INQUIRIES TO:

Kay Johnson or Kim Jones
Stephen F. Austin State University
Procurement and Business Services
936.468.6550 or 936.468.6551
email: johnsondk6@sfasu.edu or
joneskk2@sfasu.edu

**STEPHEN F. AUSTIN STATE UNIVERSITY
Request for Proposal #HVAC KERR & GRIFFITH HALL-23**

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- Exhibit H Prevailing Wage Rates
- Exhibit I Campus Map

SECTION 1 INTRODUCTION

1.1 SCOPE OF PROPOSAL

Stephen F. Austin State University, hereafter referred to as “SFA” or “the University”, is seeking proposals, in accordance with Gov’t Code 51.783, for a mechanical contractor to perform mechanical contractor services associated with HVAC renovations to the Kerr & Griffith Hall and associated Power Plant located on the campus of Stephen F. Austin State University, Nacogdoches, Texas, in accordance with the Engineering and Consulting Documents, Uniform General Conditions, Supplemental Conditions and other Exhibits herein and attached.

1.2 SFA INFORMATION

Stephen F. Austin State University is a comprehensive, regional institution located in Nacogdoches, Texas. The University enrolls approximately 11,000 students, offering approximately 80 undergraduate majors and more than 120 areas of study within six academic colleges – business, education, fine arts, forestry and agriculture, liberal and applied arts, and sciences and mathematics. Accredited by the Southern Association of Colleges and Schools, SFA provides the academic breadth of a state university with the personalized attention of a private school.

Since its founding in 1923, Stephen F. Austin State University has established a reputation of providing a traditional, residential college experience serving approximately 3,500 students making SFA residence halls their home-away-from-home. To meet the needs of these students, SFA employs approximately 1600 full and part-time faculty and staff and operates as an agency of the State of Texas. The Board of Regents is the nine-member governing body of SFA. Regents are appointed by the governor of Texas and serve staggered six-year terms.

1.3 PROJECT COMPLETION

The University requires that the job be substantially completed by August 9, 2024 and final completion, including clean-up by October 9, 2024. Planned construction start date is on or after May 13, 2024. All work is to be coordinated with Bill Richardson, Assistant Director of Construction, 936.553.8787, William.Richardson@sfasu.edu and/or Allen Singleton, Mechanical Maintenance/Building Trades Manager, 936.468.4546, ajsingleton@sfasu.edu.

1.4 SCHEDULE OF EVENTS

*DATE	EVENT
March 3, 2023	Issuance of Request for Proposal
March 16, 2023 at 9:00 AM	Mandatory Pre-Proposal Meeting
March 16, 2023 by 5:00 PM	Deadline for Questions
March 22, 2023 by 5:00 PM	Question and Answer Addenda Document Posted
March 31, 2023 by 5:00 PM	Requests for Proposals Due
April 3, 2023 at 8:45 AM	Requests for Proposals Opened
April 4-30, 2023	Notification of Award/Contract Fully Executed
May 13, 2024 – August 9, 2024	Work to be performed/Substantial Completion
October 9, 2024	Final Completion

****Dates are tentative and subject to change.***

1.5 OPEN RECORDS

SFA anticipates that the review of the proposals will be completed and awarded in April 2023. Due to the nature of the proposals, the parties understand the information exchanged in the negotiation process is confidential to the fullest extent permitted by law, and neither party will disclose such information to anyone other than representatives of the negotiating parties except as required by Texas law. Final awards and agreements, after all negotiations are completed, may be subject to open records request. Additionally, state law requires each contract for the purchase of goods or services to be posted on the University's website. By entering into a contract with the University, the firm acknowledges and accepts the University will comply with all applicable laws regarding the public posting of contracts.

1.6 HISTORICALLY UNDERUTILIZED BUSINESSES (HUB)

SEE EXHIBIT E – HUB SUBCONTRACTING PLAN READ CAREFULLY

Each respondent is required to make a good faith effort to subcontract with historically underutilized businesses and shall submit a HUB Subcontracting Plan using the HUB Subcontracting Plan documents provided in **Exhibit E**.

Stephen F. Austin State University is committed to making a good faith effort to increase business with historically underutilized businesses (HUBs) by contracting with HUBs either directly or indirectly through subcontracting opportunities. Respondents are encouraged to actively subcontract or collaborate with HUBs in an effort to create an environment that actively acknowledges and values diversity.

The university has determined that subcontracting opportunities are probable under this contract.

The university's HUB goal for this procurement is:
32.9 % for Special Trades Construction

Each HUB subcontracting plan is evaluated independently of the response. If the HSP does not reflect a good faith effort to subcontract with HUBs, the entire response is disqualified.

All questions regarding the HUB Subcontracting Plan may be directed to the Executive Director of Finance and Administrative Services/HUB Coordinator, Kay Johnson, 936.468.6550, johnsondk6@sfasu.edu.

Failure to submit the HUB Subcontracting Plan will disqualify the bid from consideration.

1.7 BONDS AND INSURANCE

The cost of all required bonds shall be included in the response.

Bid Bond:

A bid bond or bid security in the form of a Certified or Cashier's check on a State or National Bank in the State of Texas, or a Bid Bond from a Surety Company authorized to transact business in the State of Texas, and made payable to Stephen F. Austin State University **in the amount of 5% of the largest proposed amount** must accompany each response as a guarantee that, if awarded the Purchase Order, the Contractor will execute the required Performance and Payment Bonds, if required, in such form and with such Sureties as SFA may prescribe or approve.

Proposals submitted without a bid bond or bid security will not be considered.

Performance and Payment Bonds:

Performance bonds are required on contracts exceeding \$100,000. Payment bonds are required on contracts exceeding \$25,000. Refer to Article 5.1 in the Uniform General Conditions. Should the Contractor fail to execute and return the required Performance and Payment Bonds within ten (10) days after the date of notice of award, the Bid Guarantee shall become the property of SFASU, not as a penalty but as liquidated damages.

Insurance:

Certificates of Insurance are to be provided as required in Article 5.2 of the Uniform General Conditions and Supplementary General Conditions.

1.8 TITLE IX

Stephen F. Austin State University strictly adheres to Title IX of the Education Amendments of 1972, the federal Campus Sexual Violence Elimination Act; United States Department of Education regulations and directives; and the University's sexual harassment policy and procedures ("Regulations"). Specifically, the Regulations apply to all students, employees, visitors, and other third parties on Stephen F. Austin State University-controlled property, including institutions and entities with whom Stephen F. Austin State University places its students. Further, such Regulations prohibit unequal treatment on the basis of sex as well as sexual harassment and sexual misconduct. As a condition of employment, enrollment, doing business, or being permitted on the campus, the above-mentioned individuals, organizations, and entities must agree to: 1) Report immediately to the Title IX coordinator any and all claims of sex discrimination or sexual misconduct; 2) Cooperate with Stephen F. Austin State University's Title IX investigation; and, 3) Cooperate fully with all sanctions that Stephen F. Austin State University may impose against such individual, organization, or entity, who is found to have violated the Regulations. If the individual, organization, or entity fails to adhere to any of the aforementioned requirements, Stephen F. Austin State University reserves the right to take appropriate action, including but not necessarily limited to, immediate removal from campus; discipline of employees and students (including termination of employment and/or expulsion from school); and termination of business or contractual relationships.

1.9 PARKING ON CAMPUS

All vehicles parked on the University campus must properly display a valid parking permit and comply with all University parking rules. The Parking and Traffic Office supervises and coordinates all parking transportation and traffic related functions on the campus. Permits expire each August 31.

Contractor shall be responsible for obtaining parking permits from the Parking and Traffic Office and for resolving, should they arise, any parking regulation disputes and violations. The Parking and Traffic Office telephone number is 936-468-7275

1.10 ADDITIONAL TERMS AND CONDITIONS

<https://www.sfasu.edu/docs/procurement-business-services/purchase-order-general-terms-conditions.pdf>

END OF SECTION 1

SECTION 2 STATEMENT OF WORK

2.1 SCOPE OF WORK

Stephen F. Austin State University, hereafter referred to as “SFA” or “the University”, is seeking proposals in accordance with Gov’t Code 51.783 for a mechanical contractor to perform mechanical contractor services associated with HVAC renovations in the Kerr and Griffith Halls and associated Power Plant on the campus of Stephen F. Austin State University, Nacogdoches, Texas in accordance with the Project Manual, Uniform General Conditions, Supplemental Conditions and other Exhibits herein and attached.

NOTE: EQUIPMENT IS OWNER PROVIDED AND IS TO BE INSTALLED BY THE AWARDED VENDOR.

Please refer to the link provided for Engineering and Consulting Documents dated March 2, 2023 for a complete detailed scope of work. See **Exhibit F**

2.2 STANDARD FORM OF CONTRACT

By submitting a proposal, the Respondent agrees to accept a contract including the specifications, terms and conditions, Uniform General Conditions, Supplementary General Conditions and drawings herein and attached to this Request for Proposal.

After award, the University will issue a General Contractor contract document. The base contract document will be “AIA 101 1997 Standard Form of Agreement between Owner and Contractor where the basis of payment is a stipulated sum”. The contract will be modified by SFA as needed to comply with the Uniform and Supplementary General Conditions and state law.

2.3 UNIFORM GENERAL CONDITIONS AND SUPPLEMENTARY GENERAL CONDITIONS

The attached Uniform General Conditions (UGC) and Supplementary General Conditions (SGC), **Exhibit G**, are an integral part of this document. The respondent is responsible for reading and being familiar with all of the requirements of the Uniform and Supplementary General Conditions. Failure to consider all the requirements of the UGC and SGC does not relieve the Contractor from the obligation to fulfill all requirements of the UGC and SGC.

2.4 LIQUIDATED DAMAGES

The liquidated damages are standard in our contract document at \$500 per calendar day.

2.5 PREVAILING WAGE RATES

In accordance with Texas Gov’t Code 2258.022, Stephen F. Austin State University completed a determination of wage rates for Nacogdoches County. The attached “Minimum Wage Rate Determination” provides additional documentation about the determination and requirements for compensation. The total hourly compensation to each worker must equal or exceed the minimum wage rates stated in the “2015 SFA Prevailing Wage” attachment, Total Column. See Exhibit F.

The attached “Worker Wage Rate Form” is to be used by the construction manager and all subcontractors engaged in this project. The completed notice must be accepted by all workers involved in the project and delivered to the Physical Plant prior to substantial completion or with pay applications. Separate Worker Wage Rates Forms are to be completed for each worker engaged in multiple classifications. See **Exhibit H**.

For additional information regarding the applicability of Prevailing Wage Rates, refer to Uniform General Conditions, Article 2, and Paragraph 2.2.

End of Section 2

SECTION 3 INSTRUCTIONS TO RESPONDENTS

3.1 MANDATORY PRE-PROPOSAL CONFERENCE

A **MANDATORY** pre-proposal meeting and site visit is scheduled for 9:00 AM Thursday, March 16, 2023 in the Physical Plant Training Room 2104 Wilson Drive Nacogdoches, TX 75962 located on the campus of Stephen F. Austin State University A site visit is scheduled following the pre-proposal meeting.

Failure to attend the pre-proposal meeting and site visit will forfeit consideration of the Respondent's bid.

3.2 CONTACT INFORMATION

All questions regarding the RFP or response must be forwarded to the Executive Director of Finance and Administrative Services/HUB Coordinator or Purchasing Manager

Kay Johnson
P.O. Box 13030, SFA Station
Nacogdoches, TX 75962 or
Phone: 936.468.6550
Fax: 936.468.4282
Email: johnsondk6@sfasu.edu

Kim Jones
P.O. Box 13030, SFA Station
Nacogdoches, TX 75962
Phone: 936.468.6551
Fax: 936.468.4282
Email: joneskk2@sfasu.edu

3.3 SUBMITTAL DEADLINE AND LOCATION

3.3.1 All proposals must be received by SFA no later than **5:00pm, Friday, March 31, 2023.**

1.3.2. Proposals are to be submitted to:

MAIL PROPOSAL TO:

Stephen F. Austin State University
Procurement and Business Services
P.O. Box 13030, SFA Station
Nacogdoches, TX 75962-3030

HAND DELIVER AND/OR EXPRESS MAIL TO:

Stephen F. Austin State University
Procurement and Business Services
2102 Alumni Dr, Austin Bldg., Room 131
Nacogdoches, TX 75962

EMAIL to:

bids@sfasu.edu

(Subject line should read: **RFP #HVAC KERR & GRIFFITH HALL-23**)

3.3.3 All U.S. Mail addressed to any component of SFA is delivered to a central mailroom and redistributed by SFA personnel to the addressee's on-campus post office box. Consequently, there is a possibility of delay between receipt of mail at the central mailroom and receipt in the Procurement and Business Services Department. Proposals must be in the office of the Procurement and Business Services Department by the time set for RFP closing in order to be considered, and receipt by SFA at the central mailroom will not be deemed sufficient. The University shall not be responsible for responses received after the due date and time. Late responses will not be considered under any circumstances. Properly identified late responses will be returned to the Respondent unopened.

3.3.4 Proposals will be publicly opened **Monday, April 3, 2023 at 8:45 am** in the office of the Procurement and Business Services, 2102 Alumni Drive, Austin Building, Room 131. Only the names of the Respondents will be read aloud.

- 3.3.5 Proposals received after the time for closing will be returned to Respondent unopened regardless of the circumstance. It is the responsibility of the Respondent to get the proposals delivered in a timely manner, regardless of delivery method or circumstances.
- 3.3.6 Faxed proposals will **not** be accepted.
- 3.3.7 Electronically mailed proposals are acceptable and submission of email responses to bids@sfasu.edu. The University shall not be responsible for responses or portions of responses received late, illegible, incomplete, or otherwise non-responsive due to failure of electronic equipment, technology error, or operator error
- 3.3.8 Proposals may be withdrawn at any time prior to the time and date set for proposal closing.
- 3.3.9 Stephen F. Austin State University reserves the right to accept or reject any or all proposals and to waive irregularities or technicalities provided such waiver does not substantially change the offer or provide a competitive advantage to any Respondent in the judgment of Stephen F. Austin State University.

3.4 SUBMITTAL INSTRUCTIONS

- 3.4.1 All proposals must be submitted in the format prescribed in Section 3.7.
- 3.4.2 **Respondent may email proposal response to bids@sfasu.edu OR may submit one (1) complete electronic copy of the Proposal on electronic media** (e.g., USB Drive) in a Microsoft Office (Word, Excel, Project and PowerPoint files) version 2003 or later format, or searchable Adobe .PDF files. All response submittal information must be in electronic form and Exhibit D should be in excel format.
- 3.4.3 All proposals must be complete and convey all of the information requested to be considered responsive. If the proposal fails to conform to the essential requirements of the RFP, SFA alone will determine whether the variance is significant enough to consider the proposal susceptible to being made acceptable and therefore, a candidate for further consideration, or not susceptible to being made acceptable and therefore not considered for award.
- 3.4.4 Each respondent, by submitting a proposal, represents that the respondent has read and completely understands the request for proposal documents and agrees to abide by the terms of this RFP and any resulting agreement. Failure of the selected contractor to fulfill the provisions of this request for proposal shall in no way relieve the obligation of the Contractor to furnish all services necessary to carry out the provisions of the agreement.
- 3.4.5 Proposals shall be signed by a legally authorized representative of the Respondent. Unsigned proposals (**Exhibit A**) will be rejected as a material failure.

3.5 ACCEPTANCE AND FORMATION OF AGREEMENT

- 3.5.1 No recommendation for award will be made until Stephen F. Austin State University is fully satisfied that the Respondent is professionally competent and properly equipped to render the specified service.
- 3.5.2 The University reserves the right to negotiate further with any respondent that submits a proposal, once proposals have been opened. SFA may award a contract(s) based on initial proposals received without any discussion of such proposals. Therefore, each proposal should be submitted on the most favorable and complete price and terms possible.

- 3.5.3 SFA reserves the right to enter into an agreement not based only on the cost to the University, but which, in the sole opinion of SFA, is deemed to represent the best value to SFA. The University shall be the sole judge of determining which proposal represents the best value to the University.
- 3.5.4 By submitting a response, the Respondent agrees to accept a contract including the Engineer's Drawings, Uniform General Conditions, Supplementary General Conditions and other specifications herein and attached to this Request for Proposal.
- 3.5.5 The base contract document will be "AIA 101 1997 Standard Form of Agreement between Owner and Contractor where the basis of payment is a stipulated sum". The contract will be modified by SFA as needed to comply with the Uniform and Supplementary General Conditions and state law.

3.6 EVALUATION CRITERIA

- 3.6.1 Award will be based on a comprehensive review and analysis based on weighted value of averaged evaluation scores and negotiation of the proposal that best meets the needs of the University. Submission of a proposal represents concurrence with this method of evaluation and award. Furthermore, Respondents will not, under any circumstances, dispute any award made using this method.
- 3.6.2 An evaluation committee representing Stephen F. Austin State University will perform evaluation of the proposals. Proposals will be evaluated using the following criteria, which are listed below in no particular order. Stephen F. Austin State University reserves the right to award an agreement not based only on lowest cost to the University, but on the criteria that best meet the university's requirements and goals. The university shall be the sole judge of determining which proposal represents the best value to the University.
- 3.6.3 Evaluation Criteria
- A. 50% - Cost
 - B. 20% - Experience of Firm
 - C. 20% - Past Performance
 - D. 10% - Commitment and Ability

3.7 PROPOSAL FORMAT

- 3.7.2 Proposals shall be prepared in a straightforward and concise manner, identifying clearly and concisely any deviations, enhancements and other differences that exist between the RFP and the respondent's proposed services. Emphasis should be placed on responsiveness to the RFP requirements, completeness and clarity of content and conformance to the RFP instructions. **Respondents shall organize their proposal in a point-by-point format according to Section 3.7.2.** Failure to follow point-by-point presentation could be grounds for disqualification.
- 3.7.2 Proposal should include the following information and is to be submitted in the following order:
- a) Required Submittal – **failure to provide any of the following documents will result in disqualification of the proposal from further consideration**
 - i. Exhibit **A** – Signed Execution of Offer
 - ii. Exhibit **B** – Acknowledgement of Addenda, if any
 - iii. Exhibit **C** – Pricing Proposal

- iv. Exhibit **D** –Non-Collusion Affidavit
- v. Exhibit **E**—HUB Subcontracting Plan
- vi. Bid Bond
- b) Other Qualification Submittals
 - i. Experience
 - a. State how many years prime company has been in business as a mechanical contractor and whether company have operated under other or former names;
 - b. Describing the contractor’s methodology and approach to HVAC renovation projects, particularly regarding organizing and managing projects; and
 - c. List five (5) higher education projects similar in size, scope and time to that described herein; provide contact name, phone number and brief description of the project; and
 - ii. Past Performance
 - a. List five (5) HVAC renovation projects (commercial, institutional, or educational) similar in size, scope and time to that described herein; provide contact name, phone number and brief description of the project; and
 - b. Identify the personnel that will be assigned to the project and their experience in general construction, including specific examples of projects similar in size, scope and time to that described herein.
 - iii. Commitment and Ability
 - a. Provide a statement indicating the company’s commitment to the accurate and timely completion of the project including personnel and resources available to support the project and ensure a successful completion if circumstances require extra effort; and
 - b. Provide a summary of the company’s safety record for the past 3 years.

Stephen F. Austin State University reserves the right to check references prior to award. Any Negative responses received may be grounds for disqualification of the bid. SFA reserves the Right to enter into an agreement not based only on lowest cost to the University, but which, in the Sole opinion of SFA, is deemed to represent the best value to SFA.

END OF SECTION 3

EXHIBIT A EXECUTION OF OFFER

In compliance with this RFP, and subject to all the conditions herein, the undersigned offers and agrees to furnish any or all commodities or services and to comply with all terms, conditions and requirements set forth in the RFP documents and contained herein.

By signature hereon, Respondent affirms that 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 Qualifications. Failure to sign the response, or signing it with a false statement, shall void the submitted response or any resulting contracts, and the Respondent may be removed from all bid lists.

By the signature hereon affixed, the Respondent hereby certifies that neither the Respondent nor 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 or the Federal antitrust laws nor communicated directly or indirectly the response made to any competitor or any other person engaged in such line of business.

By signature hereon, Respondent certifies that if a Texas address is shown as the address of the Respondent, Respondent qualifies as a Texas Resident Bidder as defined in Rule 34 TAC 20.38.

Certifications:

Texas Family Code Child Support Certification. By signature hereon, Respondent certifies as follows: "Under Section 231.006, Texas Family Code, the Contractor certifies it is not ineligible to receive the payments specified in the Agreement and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate."

Sales Tax Certification. By signing the Agreement, the Respondent certifies as follows: "Under Section 2155.004, Texas Government Code, the Contractor certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate."

Franchise Tax Certification. By signing the Agreement, a corporate or limited liability company, Respondent certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171 of the Texas Tax Code, or that the corporation or limited liability company is exempt from the payment of such taxes, or that the corporation or limited liability company is an out-of-state corporation or limited liability company that is not subject to the Texas Franchise Tax, whichever is applicable. Contractor acknowledges and agrees that if this certification is false or inaccurate, at University's option, the Agreement may be terminated and payment withheld.

Payment of Debts to the State of Texas. That pursuant to Section 403.0551, Texas Government Code, the Respondent agrees that any payments owing to the Contractor under this contract may be applied towards any debt or delinquent taxes that the Contractor owes the State of Texas or any agency of the State of Texas, until such debt or delinquent taxes are paid in full.

The person signing the Response should show title or authority to bind his/her firm in contract.

Federal Employer's Identification Number: _____

Sole Owner should also enter Social Security No.: _____

Respondent/Company: _____

Signature (INK): _____

Name (Typed/Printed): _____

Title: _____

Street: _____

City/State/Zip: _____

Telephone No/Fax No: _____

Email: _____

**THIS SHEET MUST BE COMPLETED, SIGNED, AND RETURNED WITH RESPONDENT'S PROPOSAL.
FAILURE TO SIGN AND RETURN THIS SHEET MAY RESULT IN THE REJECTION OF YOUR RESPONSE.**

**EXHIBIT B
ACKNOWLEDGEMENT OF ADDENDA**

Receipt is hereby acknowledged of the following addenda to this RFP.

Addenda No. _____ Dated _____

Addenda No. _____ Dated _____

Addenda No. _____ Dated _____

Addenda No. _____ Dated _____

Respondent/Vendor Name: _____

Authorized Signature: _____

**Refer to the SFA Procurement and Business Services Department website to
confirm all addenda issued: [https://www.sfasu.edu/procurement-business-
services/do-business/bids-rfps](https://www.sfasu.edu/procurement-business-services/do-business/bids-rfps)**

EXHIBIT C PRICING PROPOSAL

Having carefully reviewed the specifications and related documents affecting the proposal to provide mechanical contractor services to perform HVAC renovations in the Kerr and Griffith Hall and associated Power Plant for Stephen F. Austin State University, the undersigned submits the following Financial Proposal in accordance with the Request for Proposal documents:

Respondent

Name/Vendor

Name:

Authorized Signature:

PLEASE NOTE: THIS IS AN ALL OR NONE BID

- A. Kerr Hall - The scope of work includes replacing major components in Kerr Hall. The existing chilled water piping that is served to Kerr Hall is trenched underground from the power plant shall be replaced with high density polyethylene piping. All air handlers and corresponding components throughout the building are to be renovated. Panelboards and medium voltage transformers in Kerr Hall shall also be replaced.

1 LOT: \$ _____

- B. Griffith Hall - The scope of work includes replacing major components in Griffith Hall. The existing chilled water piping system that is served to Griffith Hall underground through a tunnel from the power plant shall be replaced with high density polyethylene piping. All air handlers and corresponding components throughout the building are to be renovated. Panelboards and medium voltage transformers in Griffith Hall shall also be replaced.

1 LOT: \$ _____

- C. Power Plant work - The scope of work includes replacing several major components of the central plant. This includes water-cooled chillers, cooling towers, chilled water pumps, condenser pumps, medium voltage transformers, and domestic hot water piping serving both Griffith Hall and Kerr Hall.

1 LOT: \$ _____

TOTAL OF A + B + C: \$ _____

EXHIBIT D - NON-COLLUSION AFFIDAVIT

The undersigned, duly authorized to represent the persons, firms and corporations joining and participating in the submission of the foregoing Proposal (such persons, firms and corporations hereinafter being referred to as the "Respondents"), being duly sworn, on his or her oath, states that to the best of his or her belief and knowledge no person, firm or corporation, nor any person duly representing the same joining and participating in the submission of the foregoing Proposal, has directly or indirectly entered into any agreement or arrangement with any other Respondent, or with any official of SFA or any employee thereof, or any person, firm or corporation under contract with SFA whereby the Respondent, in order to induce acceptance of the foregoing Proposal by said SFA, has paid or is to pay to any other Respondent or to any of the aforementioned persons anything of value whatsoever, and that the Respondent has not, directly or indirectly entered into any arrangement or agreement with any other Respondent or Respondent which tends to or does lessen or destroy free competition in the letting of the contract sought for by the foregoing Proposal.

The Respondent hereby certifies that neither it, its officers, partners, owners, providers, representatives, employees and/or parties in interest, including the affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Respondent, potential Respondent, firm or person, in connection with this solicitation, to submit a collusive or sham bid, to refrain from bidding, to manipulate or ascertain the price(s) of other Respondents or potential Respondents, or to obtain through any unlawful act an advantage over other Respondents or SFA.

The prices submitted herein have been arrived at in an entirely independent and lawful manner by the Respondent without consultation with other Respondents or potential Respondents or foreknowledge of the prices to be submitted in response to this solicitation by other Respondents or potential Respondents on the part of the Respondent, its officers, partners, owners, providers, representatives, employees or parties in interest including the affiant.

CONFLICT OF INTEREST

The undersigned Respondent and each person signing on behalf of the Respondent certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief, no member of SFA, nor any member of its Board of Regents, employee, or person whose salary is payable in whole or in part by SFA, has a direct or indirect financial interest in the award of the Proposal, or in the services to which this Proposal relates, or any of the profits, real or potential, thereof, except as noted otherwise herein.

Respondent Name/Vendor Name: _____

Signature: _____

Date: _____

EXHIBIT E HUB SUBCONTRACTING PLAN



HUB Subcontracting Plan (HSP)

QUICK CHECKLIST

While this HSP Quick Checklist is being provided to merely assist you in readily identifying the sections of the HSP form that you will need to complete, it is very important that you adhere to the instructions in the HSP form and instructions provided by the contracting agency.

- **If you will be awarding all of the subcontracting work you have to offer under the contract to only Texas certified HUB vendors, complete:**
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. - Yes, I will be subcontracting portions of the contract.
 - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors.
 - Section 2 c. - Yes
 - Section 4 - Affirmation
 - GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.
- **If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract* in place for more than five (5) years meets or exceeds the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:**
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. - Yes, I will be subcontracting portions of the contract.
 - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
 - Section 2 c. - No
 - Section 2 d. - Yes
 - Section 4 - Affirmation
 - GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.
- **If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors or only to Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract* in place for more than five (5) years does not meet or exceed the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:**
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. - Yes, I will be subcontracting portions of the contract.
 - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
 - Section 2 c. - No
 - Section 2 d. - No
 - Section 4 - Affirmation
 - GFE Method B (Attachment B) - Complete an Attachment B for each of the subcontracting opportunities you listed in Section 2 b.
- **If you will not be subcontracting any portion of the contract and will be fulfilling the entire contract with your own resources (i.e., employees, supplies, materials and/or equipment), complete:**
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. - No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources.
 - Section 3 - Self Performing Justification
 - Section 4 - Affirmation

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service, to include under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.



HUB Subcontracting Plan (HSP)

In accordance with Texas Gov't Code §2161.252, the contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, all respondents, including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit this State of Texas HUB Subcontracting Plan (HSP) with their response to the bid requisition (solicitation).

NOTE: Responses that do not include a completed HSP shall be rejected pursuant to Texas Gov't Code §2161.252(b).

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the 2009 State of Texas Disparity Study. The statewide HUB goals defined in 34 Texas Administrative Code (TAC) §20.284 are:

- **11.2 percent for heavy construction other than building contracts,**
- **21.1 percent for all building construction, including general contractors and operative builders' contracts,**
- **32.9 percent for all special trade construction contracts,**
- **23.7 percent for professional services contracts,**
- **26.0 percent for all other services contracts, and**
- **21.1 percent for commodities contracts.**

- - Agency Special Instructions/Additional Requirements - -

*In accordance with 34 TAC §20.285(d)(1)(D)(iii), a respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of the respondent's subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a respondent uses this method to demonstrate good faith effort, the respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only the aggregate percentage of the contracts expected to be subcontracted to HUBs with which the respondent **does not** have a **continuous contract*** in place for **more than five (5) years** shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.*

SECTION 1: RESPONDENT AND REQUISITION INFORMATION

- a. Respondent (Company) Name: _____ State of Texas VID #: _____
Point of Contact: _____ Phone #: _____
E-mail Address: _____ Fax #: _____
- b. Is your company a State of Texas certified HUB? ☐ - Yes ☐ - No
- c. Requisition #: _____ Bid Open Date: _____
(mm/dd/yyyy)

Enter your company's name here: _____ Requisition #: _____

SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS

After dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, **including contracted staffing, goods and services will be subcontracted**. Note: In accordance with 34 TAC §20.282, a "Subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:

- ☐ - *Yes*, I will be subcontracting portions of the contract. (If *Yes*, complete Item b of this SECTION and continue to Item c of this SECTION.)
- ☐ - *No*, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources, including employees, goods and services. (If *No*, continue to SECTION 3 and SECTION 4.)

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you do not have a continuous contract* in place for more than five (5) years .	Percentage of the contract expected to be subcontracted to HUBs with which you have a continuous contract* in place for more than five (5) years .	Percentage of the contract expected to be subcontracted to non-HUBs.
1		%	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
13		%	%	%
14		%	%	%
15		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

(Note: If you have more than fifteen subcontracting opportunities, a continuation sheet is available online at <https://www.comptroller.texas.gov/purchasing/vendor/hub/forms.php>.)

c. Check the appropriate box (Yes or No) that indicates whether you will be using **only** Texas certified HUBs to perform **all** of the subcontracting opportunities you listed in SECTION 2, Item b.

- *Yes* (If *Yes*, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for **each** of the subcontracting opportunities you listed.)
- *No* (If *No*, continue to Item d, of this SECTION.)

d. Check the appropriate box (Yes or No) that indicates whether the aggregate expected percentage of the contract you will subcontract **with Texas certified HUBs** with which you **do not** have a **continuous contract*** in place with for **more than five (5) years**, **meets or exceeds** the HUB goal the contracting agency identified on page 1 in the "Agency Special Instructions/Additional Requirements."

- *Yes* (If *Yes*, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for **each** of the subcontracting opportunities you listed.)
- *No* (If *No*, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method B (Attachment B)" for **each** of the subcontracting opportunities you listed.)

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: _____

Requisition #: _____

SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS (CONTINUATION SHEET)

This page can be used as a continuation sheet to the HSP Form's page 2, Section 2, Item b. Continue listing the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you do not have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to non-HUBs.
16		%	%	%
17		%	%	%
18		%	%	%
19		%	%	%
20		%	%	%
21		%	%	%
22		%	%	%
23		%	%	%
24		%	%	%
25		%	%	%
26		%	%	%
27		%	%	%
28		%	%	%
29		%	%	%
30		%	%	%
31		%	%	%
32		%	%	%
33		%	%	%
34		%	%	%
35		%	%	%
36		%	%	%
37		%	%	%
38		%	%	%
39		%	%	%
40		%	%	%
41		%	%	%
42		%	%	%
43		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: _____ Requisition #: _____

SECTION 3: SELF PERFORMING JUSTIFICATION (If you responded "No" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION 4.) If you responded "No" to SECTION 2, Item a, in the space provided below **explain how** your company will perform the entire contract with its own employees, supplies, materials and/or equipment.

SECTION 4: AFFIRMATION

As evidenced by my signature below, I affirm that I am an authorized representative of the respondent listed in SECTION 1, and that the information and supporting documentation submitted with the HSP is true and correct. Respondent understands and agrees that, if awarded any portion of the requisition:

- The respondent will provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor for the awarded contract. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.
- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report – PAR) to the contracting agency, verifying its compliance with the HSP, including the use of and expenditures made to its subcontractors (HUBs and Non-HUBs). (The PAR is available at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/ProgressAssessmentReportForm.xls>).
- The respondent must seek approval from the contracting agency prior to making any modifications to its HSP, including the hiring of additional or different subcontractors and the termination of a subcontractor the respondent identified in its HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to any and all enforcement remedies available under the contract or otherwise available by law, up to and including debarment from all state contracting.
- The respondent must, upon request, allow the contracting agency to perform on-site reviews of the company's headquarters and/or work-site where services are being performed and must provide documentation regarding staffing and other resources.

Signature

Printed Name

Title

Date
(mm/dd/yyyy)

Reminder:

- If you responded "Yes" to SECTION 2, Items c or d, you must complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.
- If you responded "No" SECTION 2, Items c and d, you must complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.

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IMPORTANT: If you responded “Yes” to **SECTION 2, Items c or d** of the completed HSP form, you must submit a completed “HSP Good Faith Effort - Method A (Attachment A)” for **each** of the subcontracting opportunities you listed in **SECTION 2, Item b** of the completed HSP form. You may photo-copy this page or download the form at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-gfe-achm-a.pdf>

Item Number: Description:

Page 1 of 1
(Attachment A)

HSP Good Faith Effort - Method B (Attachment B)

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Enter your company's name here: _____ Requisition #: _____

IMPORTANT: If you responded “No” to **SECTION 2, Items c and d** of the completed HSP form, you must submit a completed “HSP Good Faith Effort - Method B (Attachment B)” for **each** of the subcontracting opportunities you listed in **SECTION 2, Item b** of the completed HSP form. You may photo-copy this page or download the form at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-gfe-achm-b.pdf>.

SECTION B-1: SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

Item Number: _____ Description: _____

SECTION B-2: MENTOR PROTÉGÉ PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor Protégé Program, submitting its Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the subcontracting opportunity listed in **SECTION B-1**, constitutes a good faith effort to subcontract with a Texas certified HUB towards that specific portion of work.

Check the appropriate box (Yes or No) that indicates whether you will be subcontracting the portion of work you listed in SECTION B-1 to your Protégé.

- Yes (If Yes, continue to SECTION B-4.)
- No / Not Applicable (If No or Not Applicable, continue to SECTION B-3 and SECTION B-4.)

SECTION B-3: NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

When completing this section you **MUST** comply with items **a, b, c and d**, thereby demonstrating your Good Faith Effort of having notified Texas certified HUBs and trade organizations or development centers about the subcontracting opportunity you listed in SECTION B-1. Your notice should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. When sending notice of your subcontracting opportunity, you are encouraged to use the attached HUB Subcontracting Opportunity Notice form, which is also available online at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/HUBSubcontractingOpportunityNotificationForm.pdf>.

Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs and trade organizations or development centers. Also, be mindful that a working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be “day zero” and does not count as one of the seven (7) working days.

- a.** Provide written notification of the subcontracting opportunity you listed in SECTION B-1, to three (3) or more Texas certified HUBs. Unless the contracting agency specified a different time period, you must allow the HUBs at least seven (7) working days to respond to the notice prior to you submitting your bid response to the contracting agency. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas’ Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbldsearch/index.jsp>. HUB status code “A” signifies that the company is a Texas certified HUB.
- b.** List the **three (3) Texas certified HUBs** you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the company’s Texas Vendor Identification (VID) Number, the date you sent notice to that company, and indicate whether it was responsive or non-responsive to your subcontracting opportunity notice.

Company Name	Texas VID (Do not enter Social Security Numbers.)	Date Notice Sent (mm/dd/yyyy)	Did the HUB Respond?
			- Yes - No
			- Yes - No
			- Yes - No

- c.** Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to **two (2)** or more trade organizations or development centers in Texas to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. Unless the contracting agency specified a different time period, you must provide your subcontracting opportunity notice to trade organizations or development centers at least seven (7) working days prior to submitting your bid response to the contracting agency. A list of trade organizations and development centers that have expressed an interest in receiving notices of subcontracting opportunities is available on the Statewide HUB Program’s webpage at <https://www.comptroller.texas.gov/purchasing/vendor/hub/resources.php>.
- d.** List **two (2) trade organizations or development centers** you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

Trade Organizations or Development Centers	Date Notice Sent (mm/dd/yyyy)	Was the Notice Accepted?
		- Yes - No
		- Yes - No

HSP Good Faith Effort - Method B (Attachment B) Cont.

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Enter your company's name here: _____ Requisition #: _____

SECTION B-4: SUBCONTRACTOR SELECTION

Enter the item number and description of the subcontracting opportunity you listed in **SECTION 2, Item b**, of the completed HSP form for which you are completing the attachment.

- a. Enter the item number and description of the subcontracting opportunity for which you are completing this Attachment B continuation page.

Item Number: _____ Description: _____

- b. List the subcontractor(s) you selected to perform the subcontracting opportunity you listed in **SECTION B-1**. Also identify whether they are a Texas certified HUB and their Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

Company Name	Texas certified HUB	Texas VID or federal EIN <small>Do not enter Social Security Numbers. If you do not know their VID / EIN, leave their VID / EIN field blank.</small>	Approximate Dollar Amount	Expected Percentage of Contract
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%

- c. If any of the subcontractors you have selected to perform the subcontracting opportunity you listed in **SECTION B-1** is not a Texas certified HUB, provide written justification for your selection process (attach additional page if necessary):

REMINDER: As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to **all** the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity it (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.



HUB Subcontracting Opportunity Notification Form

In accordance with Texas Gov't Code, Chapter 2161, each state agency that considers entering into a contract with an expected value of \$100,000 or more shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract. The state agency I have identified below in Section B has determined that subcontracting opportunities are probable under the requisition to which my company will be responding.

34 Texas Administrative Code, §20.285 requires all respondents (prime contractors) bidding on the contract to provide notice of each of their subcontracting opportunities to at least three (3) Texas certified HUBs (who work within the respective industry applicable to the subcontracting opportunity), and allow the HUBs at least seven (7) working days to respond to the notice prior to the respondent submitting its bid response to the contracting agency. In addition, at least seven (7) working days prior to submitting its bid response to the contracting agency, the respondent must provide notice of each of its subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code §20.282(19)(C).

We respectfully request that vendors interested in bidding on the subcontracting opportunity scope of work identified in Section C, Item 2, reply no later than the date and time identified in Section C, Item 1. Submit your response to the point-of-contact referenced in Section A.

SECTION A: PRIME CONTRACTOR'S INFORMATION

Company Name: _____

State of Texas VID #: _____

Point-of-Contact: _____

Phone #: _____

E-mail Address: _____

Fax #: _____

SECTION B: CONTRACTING STATE AGENCY AND REQUISITION INFORMATION

Agency Name: _____

Point-of-Contact: _____

Phone #: _____

Requisition #: _____

Bid Open Date: _____

(mm/dd/yyyy)

SECTION C: SUBCONTRACTING OPPORTUNITY RESPONSE DUE DATE, DESCRIPTION, REQUIREMENTS AND RELATED INFORMATION

1. Potential Subcontractor's Bid Response Due Date:

If you would like for our company to consider your company's bid for the subcontracting opportunity identified below in Item 2,

we must receive your bid response no later than _____ on _____ .
Central Time Date (mm/dd/yyyy)

In accordance with 34 TAC §20.285, each notice of subcontracting opportunity shall be provided to at least three (3) Texas certified HUBs, and allow the HUBs at least seven (7) working days to respond to the notice prior to submitting our bid response to the contracting agency. In addition, at least seven (7) working days prior to us submitting our bid response to the contracting agency, we must provide notice of each of our subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code, §20.282(19)(C).

(A working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.)

2. Subcontracting Opportunity Scope of Work:

3. Required Qualifications:

- Not Applicable

4. Bonding/Insurance Requirements:

- Not Applicable

5. Location to review plans/specifications:

- Not Applicable

EASY HUB LOOKUP on the CMBL

In accordance with Texas Administrative Code 20.14, the following HUB lookup procedures have been developed utilizing the Comptroller of Public Accounts website to identify possible HUB Vendors for subcontracting opportunities.

To that end the following easy step by step instructions to identify NIGP codes and search for potential HUB subcontractors is provided by Stephen F. Austin State University. In addition, the University may have already completed searches that may be beneficial and include a list of potential HUB subcontractors that may be used by the Respondent. If you have a hard time reading the webpages cited, increase the page view to 200% or better.

For assistance with this instruction or further assistance in identifying potential HUB subcontractors, please contact Kay Johnson at 936-468-6550.

STEP 1: After identifying what areas that are going to be subcontracted for the project go to the following web address at Comptroller of Public Accounts:

https://cmbldreg.cpa.state.tx.us/commodity_book/Alpha_index_inquiry.cfm

State of Texas Commodity Code Search

(Revised January, 2016)

NOTE: Search results represent NIGP's search-friendly keyword data set and not official code descriptions. The official NIGP Commodity Book is copyrighted material to be used for reference purposes only and may not be reproduced without a license from Periscope Holdings, Inc.

[Go To Numeric Index](#)

Enter a word or words to match. Matches will contain all words entered.

Search keywords:

OR

Search by Class: (3 digits required)

[Reset](#)

Search Results

No search done yet or nothing entered to search for

texas.gov | Texas Records and Information Locator (TRAIL) | State Link Policy | Texas Homeland Security | Texas Veterans Portal

Glenn Hegar, Texas Comptroller • Home • Contact Us
Privacy and Security Policy | Accessibility Policy | Link Policy | Public Information Act | Compact with Texans

At this point type in the item you are looking for in Search keywords: (for this example we are looking for drywall services). Press Submit Search and the results will appear. See example below:

The screenshot shows a web browser window with the URL https://cmlreg.cpa.state.tx.us/commodity_book/Alpha_index_inquiry.cfm. The page title is "State of Texas Commodity Code Search" and it is dated "(Revised January, 2016)". A note states: "NOTE: Search results represent NIGP's search-friendly keyword data set and not official code descriptions. The official NIGP Commodity Book is copyrighted material to be used for reference purposes only and may not be reproduced without a license from Periscope Holdings, Inc." There is a link to "Go To Numeric Index". A search bar contains the text "drywall". Below the search bar, there is a section for "Search Results" which shows "10 results matching 'drywall' sorted by Keyword Match". A table lists the results:

Class-Item	Keyword Match
150-33	DRYWALL GROUT
150-33	DRYWALL MORTAR
150-33	DRYWALL PLASTER
320-71	DRYWALL SCREWS
910-75	DRYWALL SERVICES, CEILING AND WALL
570-81	DRYWALL STUDS, STEEL
150-33	GROUT, DRYWALL
150-33	MORTAR, DRYWALL

The page will list Keyword Match for drywall. In this example the Class-Item for Drywall Services, Ceiling and Wall is 910-75. Remember to write down the Class and Item numbers. You will do the same for other items that you will be subcontracting on the project. Once you have completed collecting all Class and Item numbers for sub-contracting opportunities you can proceed to Step 2

STEP 2: With the Class and Item numbers you can search for HUB Vendors on the Centralized Master Bidders List – HUB Directory Search. Go to the following web address at Texas Comptroller of Public Accounts:

<https://mycpa.cpa.state.tx.us/tpasscmlsearch/index.jsp>

Under **SEARCH FOR** mark HUBs Only (you are looking for HUB vendors)

The EXAMPLE below is how the form should be filled out. Search for HUBs on CMBL; Selection 1: Class-Item; Select Fields For Output (Vendor ID, Company Name, Contact Person, City, Email, Phone, Business Description, HUB Eligibility, HUB Gender)

In the example below we are searching for NIGP Class Code 910, Items 75 (Drywall Services).

Once all the information needed has been marked. Click : **SEARCH**.

Search For Vendors - Centralized Master Bidders List - HUB Directory Search

Glenn Hegar
Texas Comptroller of Public Accounts

Search For Vendors

Related Links

- CMBL/HUB Directory Search Tips
- Register For CMBL - HUB
- HUB Mentor Protege Agreement Listing
- System for Award Management (EPLS)
- Debarred Vendors List

Centralized Master Bidders List - HUB Directory Search

The **CMBL** is a master database used by State of Texas purchasing entities to develop a mailing list for vendors to receive bids based on the products or services they can provide to the State of Texas. Manufacturers, suppliers, and other vendors wishing to furnish materials, equipment, supplies, and services to the state should register for the CMBL to receive bidding opportunities.

The CMBL/HUB Directory Search is automatically defaulted to "CMBL Only" to perform a search for vendors, including [Texas certified HUBs](#) who have elected to [register on the CMBL](#). Purchasing entities use [NIGP Class and Item Codes](#) within the "Multiple Vendor Search" feature to identify vendors who can provide the products or services they want to purchase, and to develop mailing lists of vendors to receive bids.

For detailed explanations of the various search and data output features (i.e., Search For, Single Vendor Search, Multiple Vendor Search, Business Category / Vendor Location Search, Select Fields For Output, Output Options) that may be used to create lists of potential vendors as well as retrieve detailed information on a specific vendor, click [CMBL/HUB Directory Search Tips](#).

[Search](#) [Clear Search](#)

SEARCH FOR

☒ CMBL Only ☐ HUBs Only ☐ HUBs On CMBL ☐ All Vendors

SINGLE VENDOR SEARCH

Vendor ID:

Vendor Number:

Vendor Name: contains

[Include Inactive Vendors](#) ☐ Note: If this box is checked, you must enter either a Vendor ID, Vendor Number or Vendor Name.

MULTIPLE VENDOR SEARCH

Selection	NIGP Class Code	Items	Highway District(s)
Selection 1	<input type="text"/> 910	<input type="text"/> 75	<input type="text"/>
Selection 2	<input type="text"/>	<input type="text"/>	<input type="text"/>
Selection 3	<input type="text"/>	<input type="text"/>	<input type="text"/>

BUSINESS CATEGORY / VENDOR LOCATION SEARCH

Business Category:

County Location:

City Location: begins with

Zip Code Location: exact

Highway District(s) Location:

Once the search is completed, a page like the one below will appear listing all the HUB companies that are Class 910 and Item 75.

The search found 222 vendors where are HUB's.

At this point you should look at the Business Description to confirm that the company does indeed provide drywall services. Note that the first company listed 1DZ ENTERPRISE, L.L.C. does not list drywall services, instead the company business description list Janitorial Service – if at all possible you should not use this company in your Good Faith Efforts as there are other companies that list dry wall in their business description.

3 B'S CONTSTRUCTION does list drywall and is a good candidate for sending a request to bid the project.

YOU ARE REQUIRED TO SELECT THREE (3) HUB VENDORS TO CONTACT.

When looking for HUB Vendors to support you at SFA look for these vendors that are close to Nacogdoches and East Texas. If none can be found in our area, expand your search to the Dallas/Fort Worth area, Austin and Houston market areas.

NOTES:

- 1) SELECTING HUBS THAT ARE FROM EL PASO, AND FAR WEST TEXAS DOES NOT SHOW GOOD FAITH IN YOUR SELECTION PROCESS.
- 2) IF YOU DO NOT UNDERSTAND THESE DIRECTIONS OR NEED ASSITANCE PLEASE CONTACT THE SFA PROCUREMENT OFFICE FOR HELP.

Search For Vendors - C:\ x

https://mycpa.cpa.state.tx.us/tpasscmlsearch/CmbllHubSearch.do

Glenn Hagar
Texas Comptroller of Public Accounts

Search For Vendors

Results For HUBs Only Search

Search found 222 vendors, 222 are HUB's, Includes 0 Inactive Vendors.
Search Condition : SearchType=HUB's Only,Section1 Class Code=910,Section1 Item(s)=(75)

[Back](#)

Vendor ID	Company Name	Contact Person	City	Email	Phone	Business Description
1475357271900	1DZ ENTERPRISE, L.L.C.	Debra A. Garcia	INGLESIDE	debbiegarc20@gmail.com	361-534-4244	Janitorial Service
1204990047000	3 B'S CONSTRUCTION	Owner/Andrew Rosas	LYTLE	andrewrosas@sbcglobal.net	210-382-0984	New construction, remodeling to include wood frame, metal stud,drywall. Installat suspended ceiling, concrete work and demolition.
1461995281600	360TXC	Tony Lester	AUSTIN	estimator@360txc.com	877-710-7474	We provide general contracting and complete project planning and management s vast project portfolio covers everything from 1,000sqft interiors and renovations to 25,000sqft+ ground-up and core-shell buildouts.
1472181557000	3J CONTRACTING	Jose Mondragon	CORPUS CHRISTI	3jcontracting@gmail.com	361-548-4937	Remodel, repair, Paint, Lawn Services,constructions,electrical, plumbing, fencing a demolition of small building,& hauling land waste.
1743004957100	A-1 TOTAL INTERIOR, INC.	Pres./CEO/Randy Sanchez Sr.	SAN ANTONIO	A1totalinteriors@sbcglobal.net	210-733-3739	Construction finish out new builds; remodels; commercial & residential contractors
1760404341800	A.C.T. SERVICES	President / Deborah Harris	SAN ANTONIO	debbie@actsoftx.com	210-902-5785	A.C.T. Services provides quality residential and commercial design and constructio
1752966405800	ACUMEN ENTERPRISES, INC.	Wayne Boyter	DESOTO	wayne@acumen-enterprises.com	972-572-0701	Mechanical HVAC & plumbing contractor, mechanical insulation, & general construc
1760616493100	ADVACS, INC.	Francis Foyeku	HOUSTON	fofoyeku@aol.com	713-266-7200	IT Services/Facilities Maintenance Service/Construction Management of Division 9
1263904481200	AG CONSTRUCTION MANAGEMENT	Anthony Gutierrez	AUSTIN	info@agcm.us	512-579-6498	Service general contractors for the federal, state, public works projects
1741946544200	AIR STREAM GENERAL CONSTRUCTION, INC	Rebecca Flores	SAN ANTONIO	bflores@air-streamservices.com	210-533-3264	Air-Conditioning, HVAC Contracting, Mechanical Services, and Facilities Support Se
1811519383300	ALA SIGNATURE SERVICES, LLC	Linda Alexander	KATY	alasignatureservices@gmail.com	817-993-9905	Facility/Building Maintenance Services; Janitorial/Custodial Services; General Freig Local; Administrative Services

10:32 AM 11/17/2016

POTENTIAL HUB SUBCONTRACTORS PROVIDED WITH

Request For Proposal: #HVAC KERR & GRIFFITH HALL-23

Issued by Stephen F. Austin State University

Closing Date/Time: March 31, 2023 at 5:00 PM

This list of potential HUB subcontractors is provided for information only and SFA does not endorse, recommend, nor attest to the capabilities of any company or individual listed. A complete list of State certified HUBs can be searched online at <https://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>

The Respondent is responsible for compliance with the Good Faith Effort requirements outlined in the Request For Proposal and HUB Subcontracting Plan documents.

NIGP Class Code – vendors in the following commodity class codes are identified on the following pages. The vendor is responsible to identify all commodity classes that may represent subcontracting opportunities.

941-55	HVAC Systems, Power Plant, Maintenance and Repair
910-36	Heating, Air Conditioning, and Ventilation Maintenance, Repair and Installation Services
912-56	Maintenance and Repair, Power Plant
992-47	HVAC System Testing, Balancing and Troubleshooting Services

**EXHIBIT F
LINK TO ENGINEERING
AND CONSULTING
DOCUMENTS DATED
MARCH 2, 2023**

<https://we.tl/t-BynlJs3pon>

**EXHIBIT G
UNIFORM GENERAL
CONDITIONS
AND
SUPPLEMENTARY
GENERAL CONDITIONS**



STEPHEN F. AUSTIN
STATE UNIVERSITY

NACOGDOCHES, TEXAS

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Uniform General Conditions for Construction Contracts

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Article 1. Definitions

Unless the context clearly requires another meaning, the following terms have the meaning assigned herein.

- 1.1 *Addendum/Addenda* means formally issued written or graphic modifications and/or interpretations of the Construction Documents that may add to, delete from, clarify or correct the description and/or scope of the Work. Addenda are issued during the bidding phase of the project.
- 1.2 *Application for Payment* means Contractor's monthly partial invoice for payment that includes any portion of the Work that has been completed for which an invoice has not been submitted and performed in accordance with the requirements of the Contract Documents. The Application for Payment accurately reflects the progress of the Work, is itemized based on the Schedule of Values, bears the notarized signature of Contractor, and shall not include subcontracted items for which Contractor does not intend to pay.
- 1.3 *Application for Final Payment* means Contractor's final invoice for payment that includes any portion of the Work that has been completed for which an invoice has not been submitted, amounts owing to adjustments to the final Contract Sum resulting from approved change orders, and release of remaining Contractor's retainage.
- 1.4 *Architect/Engineer (A/E)* means a person registered as an architect pursuant to Tex. Occ. Code Ann., Ch. 1051, as a landscape architect pursuant to Tex. Occ. Code Ann., Ch. 1052, a person licensed as a professional engineer pursuant Tex. Occ. Code Ann., Ch. 1001, and/or a firm employed by Owner or Design-Build Contractor to provide professional architectural or engineering services and to exercise overall responsibility for the design of a Project or a significant portion thereof, and to perform the contract administration responsibilities set forth in the Contract.
- 1.5 *Authority Having Jurisdiction* means a federal, state, local, or other regional department, or an individual such as a fire marshal, building official, electrical inspector, utility provider or other individual having statutory authority.
- 1.6 *Baseline Schedule* means the initial time schedule prepared by Contractor for Owner's information and acceptance that conveys Contractor's and Subcontractors' activities (including coordination and review activities required in the Contract Documents to be performed by A/E and ODR), durations, and sequence of work related to the entire Project to the extent required by the Contract Documents. The schedule clearly demonstrates the critical path of activities, durations and necessary predecessor conditions that drive the end date of the schedule. The Baseline Schedule shall not exceed the time limit current under the Contract Documents.
- 1.7 *Certificate of Final Completion* means the certificate issued by A/E that documents, to the best of A/E's knowledge and understanding, Contractor's completion of all

- Contractor's Punchlist items and pre-final Punchlist items, final cleanup and Contractor's provision of Record Documents, operations and maintenance manuals, and all other closeout documents required by the Contract Documents.
- 1.8 *Certificate of Substantial Completion* means the certificate executed by the A/E, ODR and Contractor that documents to the best of A/E's and ODR's knowledge and understanding, Contractor's sufficient completion of the work in accordance with the Contract, so as to be operational and fit for the use intended.
- 1.9 *Change Order* means a written modification of the Contract between Owner and Contractor, signed by Owner, Contractor, and A/E. If the project equals or exceeds \$1,000,000, close-out documents shall also include building component information and values as specified in the Texas Higher Education System Generic Building Componentization Guidelines. If the project is less than \$1,000,000, building component information and values shall be provided upon request by Owner.
- 1.10 *Close-out Documents* mean the product brochures, submittals, product/equipment maintenance and operations instructions, manuals, and other documents/warranties, record documents, affidavit of payment, release of lien and claim, and as may be further defined, identified, and required by the Contract Documents.
- 1.11 *Contract* means the entire agreement between Owner and Contractor, including all of the Contract Documents.
- 1.12 *Contract Date* is the date when the agreement between Owner and Contractor becomes effective.
- 1.13 *Contract Documents* mean those documents identified as a component of the agreement (Contract) between Owner and Contractor. These may include, but are not limited to, Drawings; Specifications; General, Supplementary General, and Special Conditions; and all pre-bid and/or pre-proposal addenda.
- 1.14 *Contract Sum* means the total compensation payable to Contractor for completion of the Work in accordance with the terms of the Contract.
- 1.15 *Contract Time* means the period between the start date identified in the Notice to Proceed with construction and the Substantial Completion date identified in the Notice to Proceed or as subsequently amended by a Change Order.
- 1.16 *Contractor* means the individual, corporation, limited liability company, partnership, firm, or other entity contracted to perform the Work, regardless of the type of construction contract used, so that the term as used herein includes a Construction Manager-at-Risk or a Design-Build firm as well as a general or prime Contractor. The Contract Documents refer to Contractor as if singular in number.
- 1.17 *Construction Documents* mean the Drawings, Specifications, and other documents issued to build the Project. Construction Documents become part of the Contract Documents when listed in the Contract or any Change Order.

- 1.18 *Construction Manager-at-Risk*, in accordance with Tex. Gov't Code, Ch. 2166, means a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repair of a facility at the contracted price as a general contractor and provides consultation to Owner regarding construction during and after the design of the facility.
- 1.19 *Date of Commencement* means the date designated in the Notice to Proceed for Contractor to commence the Work.
- 1.20 *Day* means a calendar day unless otherwise specifically stipulated.
- 1.21 *Design-Build* means a project delivery method in which the detailed design and subsequent construction is provided through a single contract with a Design-Build firm; a team, partnership, or legal entity that includes design professionals and a builder. The Design-Build Project delivery shall be implemented in accordance with Tex. Gov't Code § 2166.2531.
- 1.22 *Drawings* mean that product of A/E which graphically depicts the Work.
- 1.23 *Final Completion* means the date determined and certified by A/E and Owner on which the Work is fully and satisfactorily complete in accordance with the Contract.
- 1.24 *Final Payment* means the last and final monetary compensation made to Contractor for any portion of the Work that has been completed and accepted for which payment has not been made, amounts owing to adjustments to the final Contract Sum resulting from approved change orders, and release of Contractor's retainage.
- 1.25 *Historically Underutilized Business (HUB)* pursuant to Tex. Gov't Code, Ch. 2161, means a business that is at least 51% owned by an Asian Pacific American, a Black American, a Hispanic American, a Native American and/or an American Woman; is an entity with its principal place of business in Texas; and has an owner residing in Texas with proportionate interest that actively participates in the control, operations, and management of the entity's affairs.
- 1.26 *Notice to Proceed* means written document informing Contractor of the dates beginning Work and the dates anticipated for Substantial Completion.
- 1.27 *Open Item List* means a list of work activities, Punchlist items, changes or other issues that are not expected by Owner and Contractor to be complete prior to Substantial Completion.
- 1.28 *Owner* means the State of Texas, and any agency of the State of Texas, acting through the responsible entity of the State of Texas identified in the Contract as Owner.
- 1.29 *Owner's Designated Representative (ODR)* means the individual assigned by Owner to act on its behalf and to undertake certain activities as specifically outlined in the Contract. ODR is the only party authorized to direct changes to the scope, cost, or time of the Contract.
- 1.30 *Project* means all activities necessary for realization of the Work. This includes design,

contract award(s), execution of the Work itself, and fulfillment of all Contract and warranty obligations.

- 1.31 *Progress Assessment Report (PAR)* means the monthly compliance report to Owner verifying compliance with the HUB subcontracting plan (HSP).
- 1.32 *Proposed Change Order (PCO)* means a document that informs Contractor of a proposed change in the Work and appropriately describes or otherwise documents such change including Contractor's response of pricing for the proposed change.
- 1.33 *Punchlist* means a list of items of Work to be completed or corrected by Contractor after Substantial Completion. Punchlists indicate items to be finished, remaining Work to be performed, or Work that does not meet quality or quantity requirements as required in the Contract Documents.
- 1.34 *Record Documents* mean the drawing set, Specifications, and other materials maintained by Contractor that documents all addenda, Architect's Supplemental Instructions, Change Orders and postings and markings that record the as-constructed conditions of the Work and all changes made during construction.
- 1.35 *Request for Information (RFI)* means a written request by Contractor directed to A/E or ODR for a clarification of the information provided in the Contract Documents or for direction concerning information necessary to perform the Work that may be omitted from the Contract Documents.
- 1.36 *Samples* mean representative physical examples of materials, equipment, or workmanship used to confirm compliance with requirements and/or to establish standards for use in execution of the Work.
- 1.37 *Schedule of Values* means the detailed breakdown of the cost of the materials, labor, and equipment necessary to accomplish the Work as described in the Contract Documents, submitted by Contractor for approval by Owner and A/E.
- 1.38 *Shop Drawings* mean the drawings, diagrams, illustrations, schedules, performance charts, brochures, and other data prepared by Contractor or its agents which detail a portion of the Work.
- 1.39 *Site* means the geographical area of the location of the Work.
- 1.40 *Special Conditions* mean the documents containing terms and conditions which may be unique to the Project. Special Conditions are a part of the Contract Documents and have precedence over the Uniform General Conditions and Supplementary General Conditions.
- 1.41 *Specifications* mean the written product of A/E that establishes the quality and/or performance of products utilized in the Work and processes to be used, including testing and verification for producing the Work.
- 1.42 *Subcontractor* means a business entity that enters into an agreement with Contractor to

perform part of the Work or to provide services, materials, or equipment for use in the Work.

- 1.43 *Submittal Register* means a list provided by Contractor of all items to be furnished for review and approval by A/E and Owner and as identified in the Contract Documents including anticipated sequence and submittal dates.
- 1.44 *Substantial Completion* means the date determined and certified by Contractor, A/E, and Owner when the Work, or a designated portion thereof, is sufficiently complete, in accordance with the Contract, so as to be operational and fit for the use intended.
- 1.45 *Supplementary General Conditions* mean procedures and requirements that modify the Uniform General Conditions. Supplementary General Conditions, when used, have precedence over the Uniform General Conditions.
- 1.46 *Unit Price Work* means the Work, or a portion of the Work, paid for based on incremental units of measurement.
- 1.47 *Unilateral Change Order (ULCO)* means a Change Order issued by Owner without the complete agreement of Contractor, as to cost and/or time.
- 1.48 *Work* means the administration, procurement, materials, equipment, construction and all services necessary for Contractor, and/or its agents, to fulfill Contractor's obligations under the Contract.
- 1.49 *Work Progress Schedule* means the continually updated time schedule prepared and monitored by Contractor that accurately indicates all necessary appropriate revisions as required by the conditions of the Work and the Project while maintaining a concise comparison to the Baseline Schedule.

Article 2. Wage Rates and Other Laws Governing Construction

- 2.1 Environmental Regulations. Contractor shall conduct activities in compliance with applicable laws and regulations and other requirements of the Contract relating to the environment and its protection at all times. Unless otherwise specifically determined, Owner is responsible for obtaining and maintaining permits related to stormwater run-off. Contractor shall conduct operations consistent with stormwater run-off permit conditions. Contractor is responsible for all items it brings to the Site, including hazardous materials, and all such items brought to the Site by its Subcontractors and suppliers, or by other entities subject to direction of Contractor. Contractor shall not incorporate hazardous materials into the Work without prior approval of Owner, and shall provide an affidavit attesting to such in association with request for Substantial Completion inspection. Contractor shall not incorporate hazardous or environmentally regulated materials into the Work including, but not limited to, asbestos, lead paint, transformers with any amount of pcb's, mercury ballasts, etc. without prior approval of the Owner, and shall provide an affidavit attesting to such in association with request for Substantial Completion inspection.

2.2 Wage Rates. Contractor shall not pay less than the wage scale of the various classes of labor as shown on the prevailing wage schedule provided by Owner in the bid or proposal specifications. The specified wage rates are minimum rates only. Owner is not bound to pay any claims for additional compensation made by any Contractor because the Contractor pays wages in excess of the applicable minimum rate contained in the Contract. The prevailing wage schedule is not a representation that qualified labor adequate to perform the Work is available locally at the prevailing wage rates.

2.2.1 Notification to Workers. Contractor shall post the prevailing wage schedule in a place conspicuous to all workers on the Project Site. When requested by Owner, Contractor shall furnish evidence of compliance with the Texas Prevailing Wage Law and the addresses of all workers.

2.2.1.1 Pursuant to Tex. Gov't Code § 2258.024, Contractor shall keep, on site, true and accurate records showing the name and occupation of each worker employed by the Contractor or subcontractors and the actual per diem wages paid to each worker. The record shall be open to inspection by the ODR and their agents at all reasonable hours for the duration of the contract.

2.2.1.2 With each application for progress payment, Contractor shall make available upon request certified payroll records, including from subcontractors of any tier level, on Form WH-347 as promulgated by the U.S. Department of Labor, as may be revised from time to time and in unlocked and unprotected Excel format, along with copies of any and all Contract Documents between Contractor and any Subcontractors. Pursuant to Tex. Penal Code §§ 37.02 and 37.10, Employees of Contractor and subcontractors, including all tier levels, shall be subject to prosecution for submitting certified payroll records that contain materially false information.

2.2.1.3 The prevailing wage schedule is determined by Owner in compliance with Tex. Gov't Code, Ch. 2258. Should Contractor at any time become aware that a particular skill or trade not reflected on Owner's prevailing wage schedule will be or is being employed in the Work, whether by Contractor or by Subcontractor, Contractor shall promptly inform ODR of the proposed wage to be paid for the skill along with a justification for same and ODR shall promptly concur with or reject the proposed wage and classification.

2.2.1.4 Contractor is responsible for determining the most appropriate wage for a particular skill in relation to similar skills or trades identified on the prevailing wage schedule. In no case, shall any worker be paid less than the wage indicated for laborers.

2.2.1.5 Pursuant to Tex. Labor Code § 214.008, Misclassification of Workers; Penalty. The Owner requires Contractor and all subcontractors properly classify individuals as Employees or Independent Contractors.

- 2.2.2 Penalty for Violation. Contractor, and any Subcontractor, will pay to the State a penalty of sixty dollars (\$60) for each worker employed for each day, or portion thereof, that the worker is paid less than the wage rates stipulated in the prevailing wage schedule
- 2.2.3 Complaints of Violations.
- 2.2.3.1 Owner's Determination of Good Cause. Upon receipt of information concerning a violation, Owner will conduct an investigation in accordance with Tex. Gov't Code, Ch. 2258 and make an initial determination as to whether good cause exists that a violation occurred. Upon making a good cause finding, Owner will retain the full amounts claimed by the claimant or claimants as the difference between wages paid and wages due under the prevailing wage schedule and any supplements thereto, together with the applicable penalties in accordance with Tex. Gov't Code § 2258.023, such amounts being subtracted from successive progress payments pending a final decision on the violation.
- 2.2.3.2 No Extension of Time. If Owner's determination proves valid that good cause existed to believe a violation had occurred, Contractor is not entitled to an extension of time for any delay arising directly or indirectly from the arbitration procedures.
- 2.2.3.3 Cooperation with Owner's Investigation. Contractor shall cooperate with Owner during any investigations hereunder. Such cooperation shall include, but not necessarily be limited to, timely providing the information and/or documentation requested by Owner, which may include certified payroll records on Form WH-347 as promulgated by the U.S. Department of Labor, as may be revised from time to time and in unlocked and unprotected Excel format; and copies of any and all Contract Documents between Contractor and any Subcontractors.
- 2.2.3.4 Notification to Owner. In the event Contractor or Subcontractor elect to appeal an initial determination made pursuant to Paragraph 2.2.3.1, the Contractor and/or Subcontractor, as applicable, shall deliver notice thereof to Owner.
- 2.3 Venue for Suits. The venue for any suit arising from the Contract will be in a court of competent jurisdiction in Nacogdoches County, Texas.
- 2.4 Licensing of Trades. Contractor shall comply with all applicable provisions of State law related to license requirements for skilled tradesmen, contractors, suppliers and or laborers, as necessary to accomplish the Work. In the event Contractor, or one of its Subcontractors, loses its license during the term of performance of the Contract, Contractor shall promptly hire or contract with a licensed provider of the service at no additional cost to Owner.

- 2.5 Royalties, Patents, and Copyrights. Contractor shall pay all royalties and license fees, defend suits or claims for infringement of copyrights and patent rights, and shall hold Owner harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications or other documents prepared by Owner or A/E. However, if Contractor has reason to believe that the required design, process, or product is an infringement of a copyright or a patent, Contractor shall be responsible for such loss unless such information is promptly furnished to A/E.
- 2.6 State Sales and Use Taxes. Owner qualifies for exemption from certain State and local sales and use taxes pursuant to the provisions of Tex. Tax Code, Ch. 151. Upon request from Contractor, Owner shall furnish evidence of tax exempt status. Contractor may claim exemption from payment of certain applicable State taxes by complying with such procedures as prescribed by the State Comptroller of Public Accounts. Owner acknowledges not all items qualify for exemption. Owner is not obligated to reimburse Contractor for taxes paid on items that qualify for tax exemption.
- 2.7 Buy America Requirements for Iron and Steel Used in Construction. In accordance with Texas Government Code Section 2252.202, all iron or steel products (i.e. rolled structural shapes including wide flange beams and columns, angles, bars, plates, sheets, hollow structural sections, pipe, etc.) shall be produced, manufacturer and fabricated in the United States.

Article 3. General Responsibilities of Owner and Contractor

- 3.1 Owner's General Responsibilities. Owner is the entity identified as such in the Contract and referred to throughout the Contract Documents as if singular in number.
- 3.1.1 Preconstruction Conference. Prior to, or concurrent with, the issuance of Notice to Proceed with construction, a conference will be convened for attendance by Owner, Contractor, A/E and appropriate Subcontractors. The purpose of the conference is to establish a working understanding among the parties as to the Work, the operational conditions at the Project Site, and general administration of the Project. Topics include communications, schedules, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, maintaining required records and all other matters of importance to the administration of the Project and effective communications between the Project team members.
- 3.1.2 Owner's Designated Representative. Prior to the start of construction, Owner will identify Owner's Designated Representative (ODR), who has the express authority to act and bind Owner to the extent and for the purposes described in the various Articles of the Contract, including responsibilities for general administration of the Contract.
- 3.1.2.1 Unless otherwise specifically defined elsewhere in the Contract

Documents, ODR is the single point of contact between Owner and Contractor. Notice to ODR, unless otherwise noted, constitutes notice to Owner under the Contract.

3.1.2.2 All directives on behalf of Owner will be conveyed to Contractor and A/E by ODR in writing.

3.1.2.3 Owner will furnish or cause to be furnished, free of charge, the number of complete sets of the Drawings, Specifications, and addenda as provided in the Supplementary General Conditions or Special Conditions.

3.1.2.4 Owner's HUB Coordinator shall be Owner's Representative and sole point of contact regarding approval of the Contractor's good faith effort related to the original HUB Subcontracting Plan and subsequent changes.

3.1.2.5 The ODR will establish the protocol for planning, scheduling and documenting progress meetings with provisions for absence of various project team members that have a key role in these duties.

3.1.3 Owner Supplied Materials and Information.

3.1.3.1 Owner will furnish to Contractor those surveys describing the physical characteristics, legal description, limitations of the Site, Site utility locations, and other information used in the preparation of the Contract Documents.

3.1.3.2 Owner will provide information, equipment, or services under Owner's control to Contractor with reasonable promptness.

3.1.4 Availability of Lands. Owner will furnish, as indicated in the Contract, all required rights to use the lands upon which the Work occurs. This includes rights-of-way and easements for access and such other lands that are designated for use by Contractor. Contractor shall comply with all Owner identified encumbrances or restrictions specifically related to use of lands so furnished. Owner will obtain and pay for easements for permanent structures or permanent changes in existing facilities,

3.1.5 Limitation on Owner's Duties.

3.1.5.1 Owner will not supervise, direct, control or have authority over or be responsible for Contractor's means, methods, technologies, sequences or procedures of construction or the safety precautions and programs incident thereto. Owner is not responsible for any failure of Contractor to comply with laws and regulations applicable to the Work. Owner is not responsible for the failure of Contractor to perform or furnish the Work in accordance with the Contract Documents. Except as provided in Section 2.5, Owner is not

responsible for the acts or omissions of Contractor, or any of its Subcontractors, suppliers or of any other person or organization performing or furnishing any of the Work on behalf of Contractor.

- 3.1.5.2 Owner will not take any action in contravention of a design decision made by A/E in preparation of the Contract Documents, when such actions are in conflict with statutes under which A/E is licensed for the protection of the public health and safety.

3.2 Role of Architect/Engineer. Unless specified otherwise in the Contract between Owner and Contractor, A/E shall provide general administration services for Owner during the construction phase of the project. Written correspondence, requests for information, and Shop Drawings/submittals shall be directed to A/E for action. A/E has the authority to act on behalf of Owner to the extent provided in the Contract Documents, unless otherwise modified by written instrument, which will be furnished to Contractor by ODR, upon request.

3.2.1 Site Visits.

- 3.2.1.1 A/E will make visits to the Site at intervals as provided in the A/E's Contract with Owner, to observe the progress and the quality of the various aspects of Contractor's executed Work and report findings to Owner.

- 3.2.1.2 A/E has the authority to interpret Contract Documents and inspect the Work for compliance and conformance with the Contract. Except as referenced in Paragraph 3.1.5.2, Owner retains the sole authority to accept or reject Work and issue direction for correction, removal, or replacement of Work.

3.2.2 Clarifications and Interpretations. It may be determined that clarifications or interpretations of the Contract Documents are necessary. Upon direction by ODR, such clarifications or interpretations will be provided by A/E consistent with the intent of the Contract Documents. A/E will issue these clarifications with reasonable promptness to Contractor as A/E's supplemental instruction ("ASI") or similar instrument. If Contractor believes that such clarification or interpretation justifies an adjustment in the Contract Sum or the Contract Time, Contractor shall so notify Owner in accordance with the provisions of Article 11.

3.2.3 Limitations on Architect/Engineer Authority. A/E is not responsible for:

- 3.2.3.1 Contractor's means, methods, techniques, sequences, procedures, safety, or programs incident to the Project, nor will A/E supervise, direct, control or have authority over the same;
- 3.2.3.2 The failure of Contractor to comply with laws and regulations applicable to the furnishing or performing the Work;

3.2.3.3 Contractor's failure to perform or furnish the Work in accordance with the Contract Documents; or

3.2.3.4 Acts or omissions of Contractor, or of any other person or organization performing or furnishing any of the Work.

3.2.4 Progress Meetings and Minutes. A/E shall prepare the agenda and conduct meetings with Owner and Contractor to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work on a regular basis as determined by Owner. Contractor shall cooperate with A/E whose responsibility is the preparation of meeting minutes for distribution to Contractor and Owner. In the absence of A/E at such meetings, Contractor shall be responsible for preparing and distributing minutes to Owner and A/E. If, in the opinion of Owner, it is feasible for A/E to conduct the meeting via telecommunication, A/E shall conduct the meeting and prepare and distribute the minutes to Owner and Contractor. A/E shall solicit input for the meeting agenda from Contractor and Owner a minimum of forty-eight (48) hours before a meeting and distribute the agenda a minimum of thirty-six (36) hours before a meeting and distribute the minutes, reports, and other similar documentation within one week of the respective work or event, unless directed otherwise by Owner

3.3 Contractor's General Responsibilities. Contractor is solely responsible for implementing the Work in full compliance with all applicable laws and the Contract Documents and shall supervise and direct the Work using the best skill and attention to assure that each element of the Work conforms to the Contract requirements. Contractor is solely responsible for all construction means, methods, techniques, safety, sequences, coordination, procedures and protection of the installed work as part of the contract until substantial completion of the project. Contractor remains responsible for the care and protection of materials and Work in the areas where punch list items are completed until Final Completion.

3.3.1 Project Administration. Contractor shall provide Project administration for all Subcontractors, vendors, suppliers, and others involved in implementing the Work and shall coordinate administration efforts with those of A/E and ODR in accordance with these general conditions and other provisions of the Contract, and as outlined in the preconstruction conference. Contractor's Project Administration includes periodic daily reporting on weather, work progress, labor, materials, equipment, obstructions to prosecution of the work, accidents and injuries in accordance with the Contract and transmitted no less frequently than on a weekly basis.

3.3.2 Contractor's Management Personnel. Contractor shall employ a competent person or persons who will be present at the Project Site during the progress of the Work to supervise or oversee the work. The competent persons are subject to the approval of ODR. Contractor shall not change approved staff during the course of the project without the written approval of ODR unless the staff member leaves the employment of Contractor. Contractor shall provide additional quality control, safety and other staff as stated in the Supplementary

General Conditions.

- 3.3.3 Quality Control. Contractor shall implement its existing quality control and safety plan for the Project, and shall use such standard of care as a contractor of ordinary prudence would exercise in the same or similar circumstances.
- 3.3.4 Labor. Contractor shall provide competent, suitably qualified personnel to survey, lay-out, and construct the Work as required by the Contract Documents and maintain good discipline and order at the Site at all times.
- 3.3.5 Services, Materials, and Equipment. Unless otherwise specified, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities, incidentals, and services necessary for the construction, performance, testing, start-up, inspection and completion of the Work.
- 3.3.6 Contractor General Responsibility. For Owner furnished equipment or material that will be in the care, custody, and control of Contractor, Contractor is responsible for damage or loss. Owner shall deliver to Contractor a complete list and respective values of such materials or equipment and make an equitable adjustment to the contract amount for any increase in cost of Builder's Risk insurance.
- 3.3.7 Non-Compliant Work. Should A/E and/or ODR identify Work as non-compliant with the Contract Documents, A/E and/or ODR shall communicate the finding to Contractor, and Contractor shall correct such Work at no additional cost to the Owner. The approval of Work by either A/E or ODR does not relieve Contractor from the obligation to comply with all requirements of the Contract Documents.
- 3.3.8 Subcontractors. Contractor shall not employ any Subcontractor, supplier or other person or organization, whether initially or as a substitute, against whom Owner shall have reasonable objection. Owner will communicate such objections in writing within ten (10) days of receipt of Contractor's intent to use such Subcontractor, supplier, or other person or organization. Contractor is not required to employ any Subcontractor, supplier or other person or organization to furnish any of the work to whom Contractor has reasonable objection. Contractor shall not substitute Subcontractors without the acceptance of Owner. Pursuant to Tex. Gov't Code § 2269.256(b), if the Contractor reviews, evaluates and recommends that the Owner accept a bid or proposal from a Subcontractor but the Owner requires another bid or proposal to be accepted, Owner shall compensate the Contractor by a change in price, time or guaranteed maximum cost for any additional cost or risk the Contractor will incur because of Owner's requirement to select another bid or proposal rather than the one recommended.
- 3.3.8.1 All Subcontracts and supply contracts shall be consistent with and bind the Subcontractors and suppliers to the terms and conditions of

the Contract Documents including provisions of the Contract between Contractor and Owner.

- 3.3.8.2 Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with Contractor. Require all Subcontractors, suppliers and such other persons and organizations performing or furnishing any of the Work to communicate with Owner only through Contractor. Contractor shall furnish to Owner a copy, at Owner's request, of each first-tier subcontract promptly after its execution. Contractor agrees that Owner has no obligation to review or approve the content of such contracts and that providing Owner such copies in no way relieves Contractor of any of the terms and conditions of the Contract, including, without limitation, any provisions of the Contract which require the Subcontractor to be bound to Contractor in the same manner in which Contractor is bound to Owner.
- 3.3.9 Continuing the Work. Contractor shall carry on the Work and adhere to the progress schedule during all disputes, disagreements, or alternative resolution processes with Owner. Contractor shall not delay or postpone any Work because of pending unresolved disputes, disagreements or alternative resolution processes, except as Owner and Contractor may agree in writing.
- 3.3.10 Cleaning. Contractor shall at all times, keep the Site and the Work clean and free from accumulation of waste materials or rubbish caused by the construction activities under the Contract. Contractor shall ensure that the entire Project is thoroughly cleaned prior to requesting Substantial Completion inspection and, again, upon completion of the Project prior to the final inspection.
- 3.3.11 Acts and Omissions of Contractor, its Subcontractors, and Employees. Contractor shall be responsible for acts and omissions of his employees and all its Subcontractors, their agents and employees. Owner may, in writing, require Contractor to remove from the Project any of Contractor's or its Subcontractor's employees whom ODR finds to be careless, incompetent, unsafe, uncooperative, disruptive, or otherwise objectionable.
- 3.3.12 Acts or Omissions. Contractor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, or resulting from any acts or omissions of Contractor or its agents, employees, subcontractors, Order Fulfillers, or suppliers of subcontractors in the execution or performance of the Contract and any Purchase Orders issued under the Contract. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY

NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. CONTRACTOR AND OWNER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

3.3.13 Infringements.

3.3.13.1 Contractor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES from any and all third party claims involving infringement of United States patents, copyrights, trade and service marks, and any other intellectual or intangible property rights in connection with the PERFORMANCES OR ACTIONS OF CONTRACTOR PURSUANT TO THIS CONTRACT. CONTRACTOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL.

3.3.13.2 Contractor shall have no liability under this section if the alleged infringement is caused in whole or in part by: (i) use of the product or service for a purpose or in a manner for which the product or service was not designed, (ii) any modification made to the product without Contractor's written approval, (iii) any modifications made to the product by Contractor pursuant to Customer's specific instructions, (iv) any intellectual property right owned by or licensed to Customer, or (v) any use of the product or service by Customer that is not in conformity with the terms of any applicable license agreement.

3.3.13.3 If Contractor becomes aware of an actual or potential claim, or Customer provides Contractor with notice of an actual or potential claim, Contractor may (or in the case of an injunction against Customer, shall), at Contractor's sole option and expense; (i) procure for the Customer the right to continue to use the affected portion of the product or service, or (ii) modify or replace the affected portion of the product or service with functionally equivalent or superior product or service so that Customer's use is non-infringing.

3.3.13.4 Taxes/Workers' Compensation/Unemployment Insurance-Including Indemnity.

3.3.12.4.1 CONTRACTOR AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS CONTRACT, CONTRACTOR SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF CONTRACTOR'S AND CONTRACTOR'S EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCES IN THIS CONTRACT. CONTRACTOR AGREES TO COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. THE CUSTOMER AND/OR THE STATE SHALL NOT BE LIABLE TO CONTRACTOR, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION OR ANY BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY CUSTOMER.

3.3.12.4.1 CONTRACTOR AGREES TO INDEMNIFY AND HOLD HARMLESS OWNER, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION IN ITS PERFORMANCE UNDER THIS CONTRACT. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. CONTRACTOR AND OWNER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

3.3.13.5 The provisions of this indemnification are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

3.3.13.6 Contractor shall promptly advise Owner in writing of any claim or

demand against Owner or against Contractor which involves Owner and known to Contractor and related to or arising out of Contractor's activities under this Contract.

3.3.14 Ancillary Areas. Operate and maintain operations and associated storage areas at the site of the Work in accordance with the following:

3.3.14.1 Confine all Contractor operations, including storage of materials and employee parking upon the Site of Work, to areas designated by Owner.

3.3.14.2 Contractor may erect, at its own expense, temporary buildings that will remain its property. Remove such buildings and associated utility service lines upon completion of the Work, unless Contractor requests and Owner provides written consent that it may abandon such buildings and utilities in place.

3.3.14.3 Use only established roadways or construct and use such temporary roadways as may be authorized by Owner. Do not allow load limits of vehicles to exceed the limits prescribed by appropriate regulations or law. Provide protection to road surfaces, curbs, sidewalks, trees, shrubbery, sprinkler systems, drainage structures and other like existing improvements to prevent damage and repair any damage thereto at the expense of Contractor.

3.3.14.4 Owner may restrict Contractor's entry to the Site to specifically assigned entrances and routes.

3.3.15 Separate Contracts. Owner reserves the right to award other contracts in connection with other portions of the Project under these same or substantially similar contract conditions, including those portions related to insurance and waiver of subrogation. Owner reserves the right to perform operations related to the Project with Owner's own forces.

3.3.16 Under a system of separate contracts, the conditions described herein continue to apply except as may be amended by change order.

3.3.17 Contractor shall cooperate with other contractors or forces employed on the Project by Owner, including providing access to Site and Project information as requested.

3.3.18 Owner shall be reimbursed by Contractor for costs incurred by Owner which are payable to a separate contractor because of delays, improperly timed activities, or defective construction by Contractor. Owner will equitably adjust the Contract by Change Order for costs incurred by Contractor because of delays, improperly timed activities, and damage to the Work or defective construction by a separate contractor.

Article 4. Historically Underutilized Business (HUB) Subcontracting Plan

- 4.1 General Description. The purpose of the Historically Underutilized Business (HUB) program is to promote equal business opportunities for economically disadvantaged persons (as defined by Tex. Gov't Code, Ch. 2161) to contract with the State of Texas in accordance with the goals specified in the State of Texas Disparity Study. The HUB program annual procurement utilization goals are defined in 34 T.A.C. §20.13(b).
- 4.1.1 State agencies are required by statute to make a good faith effort to assist HUBs in participating in contract awards issued by the State. 34 T.A.C. §20.13(b) outlines the State's policy to encourage the utilization of HUBs in State contracting opportunities through race, ethnic and gender neutral means.
- 4.1.2 A Contractor who contracts with the State in an amount of \$100,000 or greater is required to make a good faith effort to award subcontracts to HUBs in accordance with 34 T.A.C. §20.14(a)(2)(A) by submitting a HUB subcontracting plan within twenty-four (24) hours after the bid or response is due and complying with the HUB subcontracting plan after it is accepted by Owner and during the term of the Contract.
- 4.2 Compliance with Approved HUB Subcontracting Plan. Contractor, having been awarded this Contract in part by complying with the HUB program statute and rules, hereby covenants to continue to comply with the HUB program as follows:
- 4.2.1 Prior to adding or substituting a Subcontractor, promptly notify Owner in the event a change is required for any reason to the accepted HUB subcontracting plan.
- 4.2.2 Conduct the good-faith effort activities required and provide Owner with necessary documentation to justify approval of a change to the approved HUB subcontracting plan.
- 4.2.3 Cooperate in the execution of a Change Order or such other approval of the change in the HUB subcontracting plans as Contractor and Owner may agree to.
- 4.2.4 Maintain and make available to Owner upon request business records documenting compliance with the accepted HUB subcontracting plan.
- 4.2.5 Upon receipt of payment for performance of Work, submit to Owner a compliance report, in the format required by Owner that demonstrates Contractor's performance of the HUB subcontracting plan.
- 4.2.5.1 Progress Assessment Report (PAR): monthly compliance reports to Owner (contracting agency), verifying their compliance with the HUB subcontracting plan, including the use/expenditures they have made to Subcontractors. (The PAR is available in the Index Forms Library on the Facilities Design & Construction page of the Texas Facilities

Commission website.

4.2.6 Promptly and accurately explain and provide supplemental information to Owner to assist in Owner's investigation of Contractor's good-faith effort to fulfill the HUB subcontracting plan and the requirements under 34 T.A.C. § 20.14(a)(1).

4.3 Failure to Demonstrate Good-Faith Effort. Upon a determination by Owner that Contractor has failed to demonstrate a good-faith effort to fulfill the HUB subcontracting plan or any Contract covenant detailed above, Owner may, in addition to all other remedies available to it, report the failure to perform to the Comptroller of Public Accounts, Texas Procurement and Support Services Division, Historically Underutilized Business Program and may bar Contractor from future contracting opportunities with Owner.

Article 5. Bonds and Insurance

5.1 Construction Bonds. Contractor is required to tender to Owner, prior to commencing the Work, performance and payment bonds, as required by Tex. Gov't Code, Ch. 2253. On Construction Manager-at-Risk and Design-Build Projects the Owner shall require a security bond, as described in Subsection 5.1.2 below.

5.1.1 Bond Requirements. Each bond shall be executed by a corporate surety or sureties authorized to do business in the State of Texas and acceptable to Owner, on Owner's form, and in compliance with the relevant provisions of the Texas Insurance Code. If any bond is for more than ten (10) percent of the surety's capital and surplus, Owner may require certification that the company has reinsured the excess portion with one or more reinsurers authorized to do business in the State. A reinsurer may not reinsure for more than ten (10) percent of its capital and surplus. If a surety upon a bond loses its authority to do business in the State, Contractor shall, within thirty (30) days after such loss, furnish a replacement bond at no added cost to Owner.

5.1.1.1 A Performance bond is required if the Contract Sum is in excess of \$100,000. The performance bond is solely for the protection of Owner. Except for Construction Manager-at-Risk Contracts, where, in Owner's sole discretion and determination, a Performance Bond is acceptable in the amount guaranteed maximum price (GMP), the performance bond is to be for the Contract Sum to guarantee the faithful performance of the Work in accordance with the Contract Documents. The form of the bond shall be approved by the Office of the Attorney General of Texas. The performance bond shall be effective through Contractor's warranty period.

5.1.1.2 A Payment bond is required if the Contract price is in excess of \$25,000. Except for Construction Manager-at-Risk Contracts where, in Owner's sole discretion and determination, a Payment Bond is acceptable in the amount of the guaranteed maximum price (GMP).

The payment bond is to be for the Contract Sum and is payable to Owner solely for the protection and use of payment bond beneficiaries. The form of the bond shall be approved by the Office of the Attorney General of Texas.

- 5.1.2 Security Bond. The security bond provides protection to Owner if Contractor presents an acceptable guaranteed maximum price (“GMP”) to Owner and 1) fails to execute the GMP; or 2) fails to deliver the required payment and performance bonds within the time period stated below.
- 5.1.3 When Bonds Are Due.
 - 5.1.3.1 Security bonds are due within ten (10) days of signing a Construction Manager-at-Risk or Design-Build Contract.
 - 5.1.3.2 Payment and performance bonds are due within ten (10) days of Contractor’s receipt of a fully executed GMP on a Construction Manager-at-Risk project or the Contract Sum for a Design-Build project, or within ten (10) days of Contractor’s receipt of a fully executed Contract on competitively bid or competitive sealed proposal projects.
- 5.1.4 Power of Attorney. Each bond shall be accompanied by a valid power of attorney (issued by the surety company and attached, signed and sealed with the corporate embossed seal, to the bond) authorizing the attorney-in-fact who signs the bond to commit the company to the terms of the bond, and stating any limit in the amount for which the attorney can issue a single bond.
- 5.1.5 Bond Indemnification. The process of requiring and accepting bonds and making claims there under shall be conducted in compliance with Tex. Gov’t Code, Ch. 2253. IF FOR ANY REASON A STATUTORY PAYMENT OR PERFORMANCE BOND IS NOT HONORED BY THE SURETY, CONTRACTOR SHALL FULLY INDEMNIFY AND HOLD OWNER HARMLESS OF AND FROM ANY COSTS, LOSSES, OBLIGATIONS OR LIABILITIES IT INCURS AS A RESULT.
- 5.1.6 Furnishing Bond Information. Owner shall furnish certified copies of the payment bond and the related Contract to any qualified person seeking copies who complies with Tex. Gov’t Code § 2253.026.
- 5.1.7 Claims on Payment Bonds. Claims on payment bonds must be sent directly to Contractor and his surety in accordance with Tex. Gov’t Code § 2253.041. All payment bond claimants are cautioned that no lien exists on the funds unpaid to Contractor on such Contract, and that reliance on notices sent to Owner may result in loss of their rights against Contractor and/or his surety. Owner is not responsible in any manner to a claimant for collection of unpaid bills, and accepts no such responsibility because of any representation by any agent or employee.
- 5.1.8 Payment Claims when Payment Bond not Required. The rights of

Subcontractors regarding payment are governed by Tex. Prop. Code §§ 53.231 – 53.239 when the value of the Contract between Owner and Contractor is less than \$25,000.00. These provisions set out the requirements for filing a valid lien on funds unpaid to Contractor as of the time of filing the claim, actions necessary to release the lien and satisfaction of such claim.

- 5.1.9 Sureties. A surety shall be listed on the US Department of the Treasury's Listing of Approved Sureties maintained by the Bureau of Financial Management Service (FMS), www.fms.treas.gov/c570, stating companies holding Certificates of Authority as acceptable sureties on Federal bonds and acceptable reinsuring companies (FMS Circular 570).
- 5.2 Insurance Requirements. Contractor shall carry insurance in the types and amounts indicated in this Article for the duration of the Contract. The insurance shall be evidenced by delivery to Owner of certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Upon request, Owner, and/or its agents, shall be entitled to receive without expense, copies of the policies and all endorsements. Contractor shall update all expired policies prior to submission for monthly payment. Failure to update policies shall be reason for withholding of payment until renewal is provided to Owner.
- 5.2.1 Contractor shall provide and maintain all insurance coverage with the minimum amounts described below until the end of the warranty period unless otherwise stated in Supplementary General Conditions or Special Conditions. Failure to maintain insurance coverage, as required, is grounds for suspension of Work for cause pursuant to Article 14.
- 5.2.2 Contractor shall deliver to Owner true and complete copies of certificates and corresponding policy endorsements prior to the issuance of any Notice to Proceed.
- 5.2.3 Failure of Owner to demand such certificates or other evidence of Contractor's full compliance with these insurance requirements or failure of Owner to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.
- 5.2.4 The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner in the Contract Documents.
- 5.2.5 The insurance coverage and limits established herein shall not be interpreted as any representation or warranty that the insurance coverage and limits necessarily will be adequate to protect Contractor.
- 5.2.6 Coverage shall be written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and rated A or better by A.M. Best Company or similar rating company or otherwise acceptable to Owner.

5.2.6.1 Insurance Coverage Required.

- 5.2.6.1.1 Workers' Compensation. Insurance with limits as required by the Texas Workers' Compensation Act, with the policy endorsed to provide a waiver of subrogation in favor of Owner, employer's liability insurance of not less than:

\$1,000,000 each accident;

\$1,000,000 disease each employee; and

\$1,000,000 disease policy limit.

- 5.2.6.1.2 Commercial General Liability Insurance. Including premises, operations, independent contractor's liability, products and completed operations and contractual liability, covering, but not limited to, the liability assumed under the indemnification provisions of this Contract, fully insuring Contractor's liability for bodily injury (including death) and property damage with a minimum limit of:

\$1,000,000 per occurrence;

\$2,000,000 general aggregate;

\$5,000 Medical Expense each person;

\$1,000,000 Personal Injury and Advertising Liability;

\$2,000,000 products and completed operations aggregate;

\$50,000 Damage to Premises Rented to You;

and Coverage shall be on an "occurrence" basis.

The policy shall include coverage extended to apply to completed operations and explosion, collapse, and underground hazards. The policy shall include endorsement CG2503 Amendment of Aggregate Limits of Insurance (per Project) or its equivalent.

If the Work involves any activities within fifty (50) feet of any railroad, railroad protective insurance as may be required by the affected railroad, written for not less than the limits required by such railroad.

- 5.2.6.1.3 Asbestos Abatement Liability Insurance, including coverage for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos containing materials. *This requirement applies if the Work or the Project includes asbestos containing materials.

The combined single limit for bodily injury and property damage will be a minimum of \$1,000,000 per occurrence.

*Specific requirement for claims-made form: Required period of coverage will be determined by the following formula: continuous coverage for life of the Contract, plus one (1) year (to provide coverage for the warranty period), and an extended discovery period for a minimum of five (5) years which shall begin at the end of the warranty period.

Employer's liability limits for asbestos abatement will be:

\$500,000 each accident;

\$500,000 disease each employee; and

\$500,000 disease policy limit.

If this Contract is for asbestos abatement only, the Special Form builder's risk or Special Form installation floater (e) is not required.

- 5.2.6.1.4 Comprehensive Automobile Liability Insurance, covering owned, hired, and non-owned vehicles, with a minimum combined single limit for bodily injury (including death) and property damage of \$1,000,000 per accident. No aggregate shall be permitted for this type of coverage.

Such insurance is to include coverage for loading and unloading hazards.

- 5.2.6.1.5 Special Form Builder's Risk Insurance, if applicable (or Special Form installation floater for instances in which the project involves solely the installation of material and/or equipment). Coverage shall be Special Form, including, but not limited to, fire, extended coverage, vandalism and malicious mischief, theft and, if applicable, flood, earth movement and named storm. Builder's risk and installation floater limits shall be equal to 100 percent of the Contract Sum plus, if any, existing property and Owner-furnished equipment specified by

Owner. The policy shall be written jointly in the names of Owner and Contractor. Subcontractors shall be named as additional insureds. The policy shall have endorsements as follows:

- 5.2.6.1.5.1 This insurance shall be specific as to coverage and not contributing insurance with any permanent insurance maintained on the property.
- 5.2.6.1.5.2 Per paragraph 12.2, upon notification by Owner that Owner desires to occupy all or a portion of the Work prior to Substantial Completion, Contractor shall be responsible for notifying and securing prior approval from the insurance company to ensure the coverage shall not be cancelled or lapsed on account of partial occupancy. Such approval shall not be unreasonably withheld and must be secured within a timeframe to meet Owner's needs.
- 5.2.6.1.5.3 Loss, if any, shall be adjusted with and made payable to Owner as trustee for the insureds as their interests may appear. Owner shall be named as loss payee.
- 5.2.6.1.5.4 The required insurance shall include coverage for Owner's property whether or not in the care, custody and control of Contractor prior to construction, during construction and during the warranty period (i.e., in the care, custody and control in the case of Builder's Risk Insurance, not in the care, custody and control in the case of General Liability, etc.).
- 5.2.6.1.5.5 For Owner furnished equipment or materials that will be in care, custody or control of Contractor, Contractor will be responsible for damage and loss.
- 5.2.6.1.5.6 For those properties located within a Tier 1 or 2 windstorm area, named storm coverage must be provided with limits specified by Owner.
- 5.2.6.1.5.7 For those properties located in flood prone areas, flood insurance coverage must be provided with limits specified by Owner.

5.2.6.1.5.8 Builder's risk insurance policy shall remain in effect until Substantial Completion.

5.2.6.1.6 "Umbrella" Liability Insurance. Contractor shall obtain, pay for and maintain umbrella liability insurance during the Contract term. "Umbrella" Liability Insurance shall be maintained for an amount of not less than \$1,000,000 if the contract amount is less than \$1,000,000. If the contract amount is \$1,000,000 or more, the "Umbrella" Liability insurance shall be maintained for an amount of not less than \$5,000,000. The policy shall provide "drop down" coverage where underlying primary insurance coverage limits are insufficient or exhausted.

5.2.7 Policies must include the following clauses, as applicable:

5.2.7.1 This insurance shall not be canceled, materially changed, or non-renewed except after thirty (30) days written notice has been given to Owner.

5.2.7.2 It is agreed that Contractor's insurance shall be deemed primary with respect to any insurance or self-insurance carried by Owner for liability arising out of operations under the Contract with Owner.

5.2.7.3 Owner, its officials, directors, employees, representatives, and volunteers are added as additional insureds as respects operations and activities of, or on behalf of the named insured performed under Contract with Owner. The additional insured status must cover completed operations as well. This is not applicable to workers' compensation policies.

5.2.7.4 A waiver of subrogation in favor of Owner shall be provided in all policies.

5.2.8 Without limiting any of the other obligations or liabilities of Contractor, Contractor shall require each Subcontractor performing work under the Contract, at Subcontractor's own expense, to maintain during the term of the Contract, the same stipulated minimum insurance including the required provisions and additional policy conditions as shown above. As an alternative, Contractor may include its Subcontractors as additional insureds on its own coverage as prescribed under these requirements. Contractor's certificate of insurance shall note in such event that Subcontractors are included as additional insureds and that Contractor agrees to provide workers' compensation for Subcontractors and their employees. Contractor shall obtain and monitor the certificates of insurance from each Subcontractor in order to assure compliance with the insurance requirements. Contractor must retain the certificates of insurance for the duration of the Contract plus five (5) years and shall have the responsibility of enforcing these insurance requirements among its

Subcontractors. Owner shall be entitled, upon request and without expense, to receive copies of these certificates.

5.2.8.1 Contractor shall deliver to Owner true and complete copies of the certificates prior to the issuance of any Notice to Proceed.

5.2.8.2 Failure of Owner to demand such certificates or other evidence of Contractor's full compliance with these insurance requirements or failure of Owner to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

5.2.8.3 The insurance coverage and limits established in the Uniform General Conditions, Supplementary General Conditions, or Special Conditions shall not be interpreted as any representation or warranty that the insurance coverage and limits necessarily will be adequate to protect Contractor.

5.2.9 Workers' compensation insurance coverage must be provided for all workers at all tier levels and meet the statutory requirements of Tex. Lab. Code § 401.011(44) and specific to construction projects for public entities as required by Tex. Lab. Code § 406.096.

Article 6. Construction Documents, Coordination Documents, and Record Documents

6.1 Drawings and Specifications.

6.1.1 Copies Furnished. Contractor shall be provided electronic Drawings and Specification, free of charge. If requested by Contractor, hard copies (paper) of Drawings and Specification shall be provided at the reimbursable cost agreed upon by Owner. The number of hard copies provided shall be acceptable to the ODR.

6.1.2 Ownership of Drawings and Specifications. All Drawings, Specifications and copies thereof furnished by the A/E shall be the physical property of Owner and are to remain the intellectual property of A/E. These documents are not to be used on any other project. Owner may use the Contract record set and electronic versions as needed for warranty, operations and maintenance or future renovations or additions without written approval of A/E. All additional or confirmatory land survey field notes, investigations, samples, calculations, test results, and reports, for which Owner has paid for such direct services, shall be the sole property of Owner.

6.1.3 Interrelation of Documents. The Contract Documents as referenced in the Contract between Owner and Contractor are complimentary, and what is required by one shall be as binding as if required by all.

- 6.1.4 Resolution of Conflicts in Documents. Where conflicts may exist within the Contract Documents, the documents shall govern in the following order: (a) Change Orders, addenda, and written amendments to the Contract; (b) the Contract; (c) Drawings; (d) Specifications (but Specifications shall control over Drawings as to quality of materials and workmanship); and (e) other Contract Documents. Among categories of documents having the same order of precedence, the term or provision that includes the latest date shall control and more specific requirements shall govern over general requirements. Contractor shall notify A/E and ODR for resolution of the issue prior to executing the Work in question.
- 6.1.5 Contractor's Duty to Review Contract Documents. In order to facilitate its responsibilities for completion of the Work in accordance with and as reasonably inferable from the Contract Documents, prior to commencing the Work, Contractor shall examine and compare the Contract Documents, information furnished by Owner, relevant field measurements made by Contractor and any visible or reasonably anticipated conditions at the Site affecting the Work. This duty extends throughout the construction phase prior to commencing each particular work activity and/or system installation.
- 6.1.6 Discrepancies and Omissions in Drawings and Specifications.
- 6.1.6.1 Promptly report to ODR and to A/E the discovery of any apparent error, omission or inconsistency in the Contract Documents prior to execution of the Work.
 - 6.1.6.2 It is recognized that Contractor is not acting in the capacity of a licensed design professional, unless it is performing as a Design-Build firm.
 - 6.1.6.3 It is further recognized that Contractor's examination of Contract Documents is to facilitate construction and does not create an affirmative responsibility to detect errors, omissions or inconsistencies or to ascertain compliance with applicable laws, building codes or regulations, unless it is performing as a Design-Build firm or a Construction Manager-at-Risk.
 - 6.1.6.4 When performing as a Design-Build firm, Contractor has sole responsibility for discrepancies, errors, and omissions in the Drawings and Specifications.
 - 6.1.6.5 When performing as a Construction Manager-at-Risk, Contractor has a shared responsibility with A/E for discovery and resolution of discrepancies, errors, and omissions in the Contract Documents. In such case, Contractor's responsibility pertains to review, coordination, and recommendation of resolution strategies within budget constraints.
 - 6.1.6.6 Contractor has no liability for errors, omissions, or inconsistencies unless Contractor knowingly failed to report a recognized problem to

Owner or the Work is executed under a Design-Build or Construction Manager-at-Risk Contract as outlined above. Should Contractor fail to perform the examination and reporting obligations of these provisions, Contractor is responsible for avoidable costs and direct and/or consequential damages.

6.2 Requirements for Record Documents. Contractor shall:

- 6.2.1 Maintain at the Site one copy of all Drawings, Specifications, addenda, approved submittals, Contract modifications, and all Project correspondence. Keep current and maintain Drawings and Specifications in good order with postings and markings to record actual conditions of Work and show and reference all changes made during construction. Provide Owner and A/E access to these documents.
- 6.2.2 Maintain the Record Documents including Drawings, Specifications and other materials which reflect the actual field conditions and representations of the Work performed, whether it be directed by addendum, Change Order or otherwise. Make available all records prescribed herein for reference and examination by Owner and its representatives and agents.
- 6.2.3 Update the Record Documents at least monthly prior to submission of periodic partial pay estimates. Failure to maintain current Record Documents constitutes cause for denial of a progress payment otherwise due.
- 6.2.4 Prior to requesting Substantial Completion inspection Contractor shall furnish a copy of its marked-up Record Documents and a preliminary copy of each instructional manual, maintenance and operating manual, parts catalog, wiring diagrams, spare parts, specified written warranties and like publications, or parts for all installed equipment, systems, and like items and as described in the Contract Documents. (Unexecuted samples of the aforementioned documentation may be reviewed by ODR when the absence of substantial completion transactions preclude execution; however, Contractor remains obligated to provide fully executed copies of such materials prior to final payment.)
- 6.2.5 Once determined acceptable by ODR with input from A/E, provide one (1) reproducible copy and one (1) electronic media copy of all Record Documents, unless otherwise required by the Supplementary General Conditions or Special Conditions.
- 6.2.6 Contractor shall be responsible for updating the Record Documents for all Contractor initiated documents and changes to the Contract Documents due to coordination and actual field conditions, including RFIs.
- 6.2.7 A/E shall be responsible for updating the Record Documents for any addenda, Change Orders, A/E supplemental instructions and any other alterations to the Contract Documents generated by A/E or Owner.

Article 7. Construction Safety

- 7.1 General. It is the duty and responsibility of Contractor and all of its Subcontractors to be familiar with, enforce and comply with all requirements of Public Law No. 91- 596, 29 U.S.C. § 651 et. seq., the Occupational Safety and Health Act of 1970, (OSHA) and all amendments thereto. Contractor shall prepare a safety plan specific to the Project and submit it to ODR and A/E prior to commencing Work. In addition, Contractor and all of its Subcontractors shall comply with all applicable laws and regulations of any public body having jurisdiction for safety of persons or property to protect them from damage, injury or loss and erect and maintain all necessary safeguards for such safety and protection.
- 7.2 Notices. Contractor shall provide notices as follows:
- 7.2.1 Notify owners of adjacent property including those that own or operate utility services and/or underground facilities, and utility owners, when prosecution of the Work may affect them or their facilities, and cooperate with them in the protection, removal, relocation and replacement, and access to their facilities and/or utilities.
- 7.2.2 Coordinate the exchange of material safety data sheets (MSDSs) or other hazard communication information required to be made available to or exchanged between or among employers at the site in connection with laws and regulations. Maintain a complete file of MSDSs for all materials in use on site throughout the construction phase and make such file available to Owner and its agents as requested.
- 7.3 Emergencies. In any emergency affecting the safety of persons or property, Contractor shall act to minimize, mitigate, and prevent threatened damage, injury or loss.
- 7.3.1 Have authorized agents of Contractor respond immediately upon call at any time of day or night when circumstances warrant the presence of Contractor to protect the Work or adjacent property from damage or to take such action pertaining to the Work as may be necessary to provide for the safety of the public.
- 7.3.2 Give ODR and A/E prompt notice of all such events.
- 7.3.3 If Contractor believes that any changes in the Work or variations from Contract Documents have been caused by its emergency response, promptly notify Owner within seventy-two (72) hours of the emergency response event.
- 7.3.4 Should Contractor fail to respond, Owner is authorized to direct other forces to take action as necessary and Owner may deduct any cost of remedial action from funds otherwise due Contractor.
- 7.4 Injuries. In the event of an incident or accident involving outside medical care for an individual on or near the Work, Contractor shall notify ODR and other parties as may

be directed promptly, but no later than twenty-four (24) hours after Contractor learns that an event required medical care.

7.4.1 Record the location of the event and the circumstances surrounding it, by using photography or other means, and gather witness statements and other documentation which describes the event.

7.4.2 Supply ODR and A/E with an incident report no later than thirty-six (36) hours after the occurrence of the event. In the event of a catastrophic incident (one (1) fatality or three (3) workers hospitalized), barricade and leave intact the scene of the incident until all investigations are complete. A full set of incident investigation documents, including facts, finding of cause, and remedial plans shall be provided within one (1) week after occurrence, unless otherwise directed by legal counsel. Contractor shall provide ODR with written notification within one week of such catastrophic event if legal counsel delays submission of full report.

7.5 Environmental Safety. Upon encountering any previously unknown potentially hazardous material, or other materials potentially contaminated by hazardous material, Contractor shall immediately stop work activities impacted by the discovery, secure the affected area, and notify ODR immediately.

7.5.1 Bind all Subcontractors to the same duty.

7.5.2 Upon receiving such notice, ODR will promptly engage qualified experts to make such investigations and conduct such tests as may be reasonably necessary to determine the existence or extent of any environmental hazard. Upon completion of this investigation, ODR will issue a written report to Contractor identifying the material(s) found and indicate any necessary steps to be taken to treat, handle, transport or dispose of the material.

7.5.3 Owner may hire third-party Contractors to perform any or all such steps.

7.5.4 Should compliance with ODR's instructions result in an increase in Contractor's cost of performance, or delay the Work, Owner will make an equitable adjustment to the Contract Sum and/or the time of completion, and modify the Contract in writing accordingly.

7.6 Trenching Plan. When the project requires excavation which either exceeds a depth of four (4) feet, or results in any worker's upper body being positioned below grade level, Contractor is required to submit a trenching plan to ODR prior to commencing trenching operations unless an engineered plan is part of the Contract Documents. The plan is required to be prepared and sealed by a professional engineer registered in the State of Texas, and hired or employed by Contractor or Subcontractor to perform the work. Said engineer cannot be anyone who is otherwise either directly or indirectly engaged on this project.

Article 8. Quality Control

- 8.1 Materials & Workmanship. Contractor shall execute Work in a good and workmanlike manner in accordance with the Contract Documents. Contractor shall develop and provide a quality control plan specific to this Project and acceptable to Owner. Where Contract Documents do not specify quality standards, complete and construct all Work in compliance with generally accepted construction industry standards. Unless otherwise specified, incorporate all new materials and equipment into the Work under the Contract.
- 8.2 Testing.
- 8.2.1 Owner is responsible for coordinating and paying for routine and special tests required to confirm compliance with quality and performance requirements, except as stated below or otherwise required by the Contract Documents. Contractor shall provide the following testing:
- 8.2.1.1 Any test of basic material or fabricated equipment included as part of a submittal for a required item in order to establish compliance with the Contract Documents.
- 8.2.1.2 Any test of basic material or fabricated equipment offered as a substitute for a specified item on which a test may be required in order to establish compliance with the Contract Documents.
- 8.2.1.3 Preliminary, start-up, pre-functional and operational testing of building equipment and systems as necessary to confirm operational compliance with requirements of the Contract Documents.
- 8.2.1.4 All subsequent tests on original or replaced materials conducted as a result of prior testing failure.
- 8.2.2 All testing shall be performed in accordance with standard test procedures by an accredited laboratory, or special consultant as appropriate, acceptable to Owner. Results of all tests shall be provided promptly to ODR, A/E, and Contractor.
- 8.2.3 Non-Compliance (Test Results). Should any of the tests indicate that a material and/or system does not comply with the Contract requirements, the burden of proof remains with Contractor, subject to:
- 8.2.3.1 Contractor selection and submission of the laboratory for Owner acceptance.
- 8.2.3.2 Acceptance by Owner of the quality and nature of tests.
- 8.2.3.3 All tests taken in the presence of A/E and/or ODR, or their representatives.
- 8.2.3.4 If tests confirm that the material/systems comply with Contract Documents, Owner will pay the cost of the test.

- 8.2.3.5 If tests reveal noncompliance, Contractor will pay those laboratory fees and costs of that particular test and all future tests, of that failing Work, necessary to eventually confirm compliance with Contract Documents.
- 8.2.3.6 Proof of noncompliance with the Contract Documents will make Contractor liable for any corrective action which ODR determines appropriate, including complete removal and replacement of non-compliant work or material.
- 8.2.4 Notice of Testing. Contractor shall give ODR and A/E timely notice of its readiness and the date arranged so ODR and A/E may observe such inspection, testing, or approval.
- 8.2.5 Test Samples. Contractor is responsible for providing Samples of sufficient size for test purposes and for coordinating such tests with their Work Progress Schedule to avoid delay.
- 8.2.6 Covering Up Work. If Contractor covers up any Work without providing Owner an opportunity to inspect, Contractor shall, if requested by ODR, uncover and recover the work at Contractor's expense.

8.3 Submittals.

- 8.3.1 Contractor's Submittals. Contractor shall submit with reasonable promptness consistent with the Project schedule and in orderly sequence all Shop Drawings, Samples, or other information required by the Contract Documents, or subsequently required by Change Order. Prior to submitting, Contractor shall review each submittal for general compliance with Contract Documents and approve submittals for review by A/E and Owner by an approval stamp affixed to each copy. Submittal data presented without Contractor's stamp will be returned without review or comment, and any delay resulting from failure is Contractor's responsibility.
 - 8.3.1.1 Contractor shall within twenty-one (21) days of the effective date of the Notice To Proceed with construction, submit to ODR and A/E, a submittal schedule/register, organized by specification section, listing all items to be furnished for review and approval by A/E and Owner. The list shall include Shop Drawings, manufacturer's literature, certificates of compliance, materials Samples, materials colors, guarantees, and all other items identified throughout the Specifications.
 - 8.3.1.2 Contractor shall indicate the type of item, Contract requirements reference, and Contractor's scheduled dates for submitting the item along with the requested dates for approval answers from A/E and Owner. The submittal register shall indicate the projected dates for procurement of all included items and shall be updated at least monthly with actual approval and procurement dates. Contractor's Submittal Register must be reasonable in terms of the review time for

complex submittals. Contractor's submittal schedule must be consistent with the Work Progress Schedule and identify critical submittals. Show and allow a minimum of fifteen (15) calendar days duration after receipt by A/E and ODR for review and approval. If resubmittal required, allow a minimum of an additional fifteen (15) c a l e n d a r days for review. Submit the updated Submittal Register with each request for progress payment. Owner may establish routine review procedures and schedules for submittals at the preconstruction conference and/or elsewhere in the Contract Documents. If Contractor fails to update and provide the Submittal Register as required, Owner may, after seven (7) days' notice to Contractor withhold a reasonable sum of money that would otherwise be due Contractor.

8.3.1.3 Contractor shall coordinate the Submittal Register with the Work Progress Schedule. Do not schedule Work requiring a submittal to begin prior to scheduling review and approval of the related submittal. Revise and/or update both schedules monthly to ensure consistency and current project data. Provide to ODR the updated Submittal Register and schedule with each application for progress payment. Refer to requirements for the Work Progress Schedule for inclusion of procurement activities therein. Regardless, the Submittal Register shall identify dates submitted and returned and shall be used to confirm status and disposition of particular items submitted, including approval or other action taken and other information not conveniently tracked through the Work Progress Schedule.

8.3.1.4 By submitting Shop Drawings, Samples or other required information, Contractor represents that it has determined and verified all applicable field measurements, field construction criteria, materials, catalog numbers and similar data to the extent possible from existing conditions and design information provided by A/E prior to fabrication; and has checked and coordinated each Shop Drawing and Sample with the requirements of the Work and the Contract Documents.

8.3.2 Review of Submittals. A/E and ODR review is only for conformance with the design concept and the information provided in the Contract Documents. Responses to submittals will be in writing. The approval of a separate item does not indicate approval of an assembly in which the item functions. The approval of a submittal does not relieve Contractor of responsibility for any deviation from the requirements of the Contract unless Contractor informs A/E and ODR of such deviation in a clear, conspicuous, and written manner on the submittal transmittal and at the time of submission, and obtains Owner's written specific approval of the particular deviation.

8.3.3 Correction and Resubmission. Contractor shall make any corrections required to a submittal and resubmit the required number of corrected copies promptly so as to avoid delay, until submittal approval. Direct attention in writing to A/E and ODR, when applicable, to any new revisions other than the

corrections requested on previous submissions.

8.3.4 Limits on Shop Drawing Review. Contractor shall not commence any Work requiring a submittal until review of the submittal under Subsection 8.3.2. Construct all such work in accordance with reviewed submittals. Comments incorporated as part of the review in Subsection 8.3.2 of Shop Drawings and Samples is not authorization to Contractor to perform extra work or changed work unless authorized through a Change Order. A/E's and ODR's review, if any, does not relieve Contractor from responsibility for defects in the Work resulting from errors or omissions of any kind on the submittal, regardless of any approval action. A/E or ODR shall not make formal changes to the Contract Documents via the submittal process. Changes to the Construction Documents shall be accomplished via Section 3.2.2 and Article 11 Changes.

8.3.5 No Substitutions Without Approval. ODR and A/E may receive and consider Contractor's request for substitution when Contractor agrees to reimburse Owner for review costs and satisfies the requirements of this section. If Contractor does not satisfy these conditions, ODR and A/E will return the request without action except to record noncompliance with these requirements. Owner will not consider the request if Contractor cannot provide the product or method because of failure to pursue the Work promptly or coordinate activities properly. Contractor's request for a substitution may be considered by ODR and A/E when:

8.3.5.1 The Contract Documents do not require extensive revisions; and

8.3.5.2 Proposed changes are in keeping with the general intent of the Contract Documents and the design intent of A/E and do not result in an increase in cost to Owner; and

8.3.5.3 The request is timely, fully documented, properly submitted and one or more of the following apply:

8.3.5.3.1 Contractor cannot provide the specified product, assembly or method of construction within the Contract Time;

8.3.5.3.2 The request directly relates to an "or-equal" clause or similar language in the Contract Documents;

8.3.5.3.3 The request directly relates to a "product design standard" or "performance standard" clause in the Contract Documents;

8.3.5.3.4 The requested substitution offers Owner a substantial advantage in cost, time, energy conservation or other considerations, after deducting additional responsibilities Owner must assume;

8.3.5.3.5 The specified product or method of construction cannot

receive necessary approval by an authority having jurisdiction, and ODR can approve the requested substitution;

- 8.3.5.3.6 Contractor cannot provide the specified product, assembly or method of construction in a manner that is compatible with other materials and where Contractor certifies that the substitution will overcome the incompatibility;
- 8.3.5.3.7 Contractor cannot coordinate the specified product, assembly or method of construction with other materials and where Contractor certifies they can coordinate the proposed substitution; or
- 8.3.5.3.8 The specified product, assembly or method of construction cannot provide a warranty required by the Contract Documents and where Contractor certifies that the proposed substitution provides the required warranty.
- 8.3.5.3.9 The manufacture of the specified product has been removed from production due to cancellation or obsolescence.

8.3.6 Unauthorized Substitutions at Contractor's Risk. Contractor is financially responsible for any additional costs or delays resulting from unauthorized substitution of materials, equipment or fixtures other than those specified. Contractor shall reimburse Owner for any increased design or contract administration costs resulting from such unauthorized substitutions.

8.4 Field Mock-up.

8.4.1 Mock-ups shall be constructed prior to commencement of a specified scope of work to confirm acceptable workmanship.

8.4.1.1 As a minimum, field mock-ups shall be constructed for roofing systems, exterior veneer / finish systems, glazing systems, and any other Work requiring a mock-up as identified throughout the Contract Documents. Mock-ups for systems not part of the Project scope shall not be required.

8.4.1.2 Mock-ups may be incorporated into the Work if allowed by the Contract Documents and if acceptable to ODR. If mock-ups are freestanding, they shall remain in place until otherwise directed by Owner.

8.4.1.3 Contractor shall include field mock-ups in their Work Progress Schedule and shall notify ODR and A/E of readiness for review sufficiently in advance to coordinate review without delay.

8.5 Inspection During Construction.

- 8.5.1 Contractor shall provide sufficient, safe, and proper facilities, including equipment as necessary for safe access, at all reasonable times for observation and/or inspection of the Work by Owner and its agents. “Reasonable times” of inspection allow for sufficient monitoring of the quality of materials and installation without substantially impeding the progress of the Work.
- 8.5.2 Contractor shall not cover up any Work with finishing materials or other building components prior to providing Owner and its agents an opportunity to perform an inspection of the Work.
 - 8.5.2.1 Should corrections of the Work be required for approval, Contractor shall not cover-up corrected Work until Owner indicates approval.
 - 8.5.2.2 Contractor shall provide notification of at least five (5) working days or otherwise as mutually agreed, to ODR of the anticipated need for a cover-up inspection. Should ODR fail to make the necessary inspection within the agreed period, Contractor may proceed with cover-up Work, but is not relieved of responsibility for Work to comply with requirements of the Contract Documents.

Article 9. Construction Schedules

- 9.1 Contract Time. **TIME IS AN ESSENTIAL ELEMENT OF THE CONTRACT.** The Contract Time is the time between the dates indicated in the Notice to Proceed for commencement of the Work and for achieving Substantial Completion. The Contract Time can be modified only by Change Order. Failure to achieve Substantial Completion within the Contract Time as otherwise agreed to in writing will cause damage to Owner and may subject Contractor to liquidated damages as provided in the Contract Documents. If Contractor fails to achieve Final Completion within thirty (30) calendar days after Substantial Completion or a mutually agreed upon longer period of time between Contractor and Owner, Contractor shall be responsible for Owner’s additional inspection, project management, and maintenance cost to the extent caused by Contractor’s failure to achieve Final Completion.
- 9.2 Notice to Proceed. Owner will issue a Notice to Proceed which shall state the dates for beginning Work and for achieving Substantial Completion of the Work.
- 9.3 Work Progress Schedule. Refer to Supplementary General Conditions or Special Conditions for additional schedule requirements. Unless indicated otherwise in those documents, Contractor shall submit their initial Work Progress Schedule for the Work in relation to the entire Project not later than twenty-one (21) days after the effective date of the Notice to Proceed to ODR and A/E. Unless otherwise indicated in the Contract Documents, the Work Progress Schedule shall be computerized Critical Path Method (CPM) with fully editable logic. This initial schedule shall indicate the dates for starting and completing the various aspects required to complete the Work, including mobilization, procurement, installation, testing, inspection, delivery of Close-out Documents and acceptance of all the Work of the Contract. When acceptable to Owner, the initially accepted schedule shall be the Baseline Schedule for comparison

to actual conditions throughout the Contract duration. In the event the Baseline Schedule, or any revisions thereto, reflect a Substantial Completion date that will occur sooner than the Final Completion date as set forth in the Contract Documents, or other similar agreement, the period of time between the Substantial Completion date and the Final Completion date shall be considered the “float.”

9.3.1 Schedule Requirements. Contractor shall submit electronic and paper copy of Work Progress Schedule reflecting accurate and reliable representations of the planned progress of the Work, the Work to date if any, and of Contractor’s actual plans for its completion. Contractor shall organize and provide adequate detail so the schedule is capable of measuring and forecasting the effect of delaying events on completed and uncompleted activities.

9.3.1.1 Contractor shall resubmit initial schedule as required to address review comments from A/E and ODR until such schedule is accepted as the Baseline Schedule.

9.3.1.2 Submittal of a schedule, schedule revision or schedule update constitutes Contractor’s representation to Owner of the accurate depiction of all progress to date and that Contractor will follow the schedule as submitted in performing the Work.

9.3.2 Schedule Updates. Contractor shall update the Work Progress Schedule and the Submittal Register monthly, as a minimum, to reflect progress to date and current plans for completing the Work, while maintaining original schedule as Baseline Schedule and submit paper and electronic copies of the update to A/E and ODR as directed, but as a minimum with each request for payment. Owner has no duty to make progress payments unless accompanied by the updated Work Progress Schedule. Show the anticipated date of completion reflecting all extensions of time granted through Change Order as of the date of the update. Contractor may revise the Work Progress Schedule when in Contractor’s judgment it becomes necessary for the management of the Work. Contractor shall identify all proposed changes to schedule logic to Owner and to A/E via an executive summary accompanying the updated schedule for review prior to final implementation of revisions into a revised Baseline Schedule. Schedule changes that materially impact Owner’s operations shall be communicated promptly to ODR and shall not be incorporated into the revised Baseline Schedule without ODR’s consent.

9.3.3 The Work Progress Schedule is for Contractor’s use in managing the Work and submittal of the schedule, and successive updates or revisions, is for the information of Owner and to demonstrate that Contractor has complied with requirements for planning the Work. Owner’s acceptance of a schedule, schedule update or revision constitutes Owner’s agreement to coordinate its own activities with Contractor’s activities as shown on the schedule.

9.3.3.1 Acceptance of the Work Progress Schedule, or update and/or revision

thereto does not indicate any approval of Contractor's proposed sequences and duration.

9.3.3.2 Acceptance of a Work Progress Schedule update or revision indicating early or late completion does not constitute Owner's consent, alter the terms of the Contract, or waive either Contractor's responsibility for timely completion or Owner's right to damages for Contractor's failure to do so.

9.3.3.3 Contractor's scheduled dates for completion of any activity or the entire Work do not constitute a change in terms of the Contract. Change Orders are the only method of modifying the Substantial Completion Date(s) and Contract Time.

9.4 Ownership of Float. Unless indicated otherwise in the Contract Documents, Contractor shall develop its schedule, pricing, and execution plan to provide a minimum of ten (10) percent total float at acceptance of the Baseline Schedule. Float time contained in the Work Progress Schedule is not for the exclusive benefit of Contractor or Owner, but belongs to the Project and may be consumed by either party as needed on a first-used basis.

9.5 Completion of Work. Contractor is accountable for completing the Work within the Contract Time stated in the Contract, or as otherwise amended by Change Order.

9.5.1 If, in the judgment of Owner, the work is behind schedule and the rate of placement of work is inadequate to regain scheduled progress to insure timely completion of the entire work or a separable portion thereof, Contractor, when so informed by Owner, shall immediately take action to increase the rate of work placement by:

9.5.1.1 An increase in working forces.

9.5.1.2 An increase in equipment or tools.

9.5.1.3 An increase in hours of work or number of shifts.

9.5.1.4 Expedite delivery of materials.

9.5.1.5 Other action proposed if acceptable to Owner.

9.5.2 Within ten (10) days after such notice from ODR, Contractor shall notify ODR in writing of the specific measures taken and/or planned to increase the rate of progress. Contractor shall include an estimate as to the date of scheduled progress recovery and an updated Work Progress Schedule illustrating Contractor's plan for achieving timely completion of the Project. Should ODR deem the plan of action inadequate, Contractor shall take additional steps or make adjustments as necessary to its plan of action until it meets with ODR's approval.

9.6 Modification of the Contract Time.

9.6.1 Delays and extension of time as hereinafter described are valid only if executed in accordance with provisions set forth in Article 11.

9.6.2 When a delay defined herein as excusable prevents Contractor from completing the Work within the Contract Time, Contractor is entitled to an extension of time. Owner will make an equitable adjustment and extend the number of days lost because of excusable delay or Weather Days, as measured by Contractor's progress schedule. All extensions of time will be granted in calendar days. In no event, however, will an extension of time be granted for delays that merely extend the duration of non-critical activities, or which only consume float without delaying the project Substantial Completion date(s). Provided, however, all float must be consumed by approved excusable delays to the critical path before any extension of time can be granted.

9.6.2.1 A "Weather Day" is a day on which Contractor's current schedule indicates Work is to be done, and on which inclement weather and/or related site conditions prevent Contractor from performing seven (7) continuous hours of Work on the critical path between the hours of 7:00 a.m. and 6:00 p.m. Weather days are excusable delays. When weather conditions at the site prevent work from proceeding, Contractor shall immediately notify ODR for confirmation of the conditions. At the end of each calendar month, submit to ODR and A/E a list of Weather Days occurring in that month along with documentation of the impact on critical activities. Based on confirmation by ODR, any time extension granted will be issued by Change Order. If Contractor and Owner cannot agree on the time extension, Owner may issue a ULCO for fair and reasonable time extension.

9.6.2.2 Excusable Delay. Contractor is entitled to an equitable adjustment of the Contract Time, issued via change order, for delays caused by the following:

9.6.2.2.1 Errors, omissions and imperfections in design, which A/E corrects by means of changes in the Drawings and Specifications.

9.6.2.2.2 Unanticipated physical conditions at the Site, which A/E corrects by means of changes to the Drawings and Specifications or for which ODR directs changes in the Work identified in the Contract Documents.

9.6.2.2.3 Failure of Owner to have secured property, right-of-way or easements necessary for Work to begin or progress.

9.6.2.2.4 Changes in the Work that effect activities identified in

Contractor's schedule as "critical" to completion of the entire Work, if such changes are ordered by ODR or recommended by A/E and ordered by ODR.

9.6.2.2.5 Suspension of Work for unexpected natural events, Force Majeure (sometimes called "acts of God"), civil unrest, strikes or other events which are not within the reasonable control of Contractor.

9.6.2.2.6 Suspension of Work for convenience of ODR, which prevents Contractor from completing the Work within the Contract Time.

9.6.2.2.7 Administrative delays caused by activities or approval requirements related to an Authority Having Jurisdiction.

9.6.3 Contractor's relief in the event of such delays is the time impact to the critical path as determined by analysis of Contractor's schedule. In the event that Contractor incurs additional direct costs because of the excusable delays other than described in Subparagraph 9.6.2.2.4 and within the reasonable control of Owner, the Contract price and Contract Time are to be equitably adjusted by Owner pursuant to the provisions of Article 11.

9.7 No Damages for Delay. Contractor has no claim for monetary damages for delay or hindrances to the work from any cause, including without limitation any act or omission of Owner.

9.8 Concurrent Delay. When the completion of the Work is simultaneously delayed by an excusable delay and a delay arising from a cause not designated as excusable, Contractor may not be entitled to a time extension for the period of concurrent delay.

9.9 Other Time Extension Requests. Time extensions requested in association with changes to the Work directed or requested by Owner shall be included with Contractor's proposed costs for such change. Time extensions requested for inclement weather are covered by Paragraph 9.6.2.1 above. If Contractor believes that the completion of the Work is delayed by a circumstance other than for changes directed to the Work or weather, they shall give ODR written notice, stating the nature of the delay and the activities potentially affected, within five (5) days after the onset of the event or circumstance giving rise to the excusable delay. Contractor shall provide sufficient written evidence to document the delay. In the case of a continuing cause of delay, only one claim is necessary. State claims for extensions of time in numbers of whole or half days.

9.9.1 Within ten (10) days after the cessation of the delay, Contractor shall formalize its request for extension of time in writing to include a full analysis of the schedule impact of the delay and substantiation of the excusable nature of the delay. All changes to the Contract Time or made as a result of such claims is by Change Order, as set forth in Article 11.

- 9.9.2 No extension of time releases Contractor or the Surety furnishing a performance or payment bond from any obligations under the Contract or such a bond. Those obligations remain in full force until the discharge of the Contract.
- 9.9.3 Contents of Time Extension Requests. Contractor shall provide with each Time Extension Request a quantitative demonstration of the impact of the delay on project completion time, based on the Work Progress Schedule. Contractor shall include with Time Extension Requests a reasonably detailed narrative setting forth:
- 9.9.3.1 The nature of the delay and its cause; the basis of Contractor's claim of entitlement to a time extension.
- 9.9.3.2 Documentation of the actual impacts of the claimed delay on the critical path indicated in Contractor's Work Progress Schedule, and any concurrent delays.
- 9.9.3.3 Description and documentation of steps taken by Contractor to mitigate the effect of the claimed delay, including, when appropriate, the modification of the Work Progress Schedule.
- 9.9.4 Owner's Response. Owner will respond to the Time Extension Request by providing to Contractor written notice of the number of days granted, if any, and giving its reason if this number differs from the number of days requested by Contractor.
- 9.9.4.1 Owner will not grant time extensions for delays that do not affect the Contract Substantial Completion date.
- 9.9.4.2 Owner will respond to each properly submitted Time Extension Request within fifteen (15) days following receipt. If Owner cannot reasonably make a determination about Contractor's entitlement to a time extension within that time, Owner will notify Contractor in writing. Unless otherwise agreed by Contractor, Owner has no more than fifteen (15) additional days to prepare a final response. If Owner fails to respond within forty-five (45) days from the date the Time Extension Request is received, Contractor is entitled to a time extension in the amount requested.
- 9.10 Failure to Complete Work Within the Contract Time. **TIME IS AN ESSENTIAL ELEMENT OF THE CONTRACT.** Contractor's failure to substantially complete the Work within the Contract Time or to achieve Substantial Completion as required will cause damage to Owner. These damages shall be liquidated by agreement of Contractor and Owner, in the amount per day as set forth in the Contract Documents.
- 9.11 Liquidated Damages. Owner may collect liquidated damages due from Contractor directly or indirectly by reducing the Contract Sum in the amount of liquidated damages stated in the Supplementary General Conditions or Special Conditions.

Article 10. Payments

10.1 Schedule of Values. Contractor shall submit to ODR and A/E for acceptance a Schedule of Values accurately itemizing material and labor for the various classifications of the Work based on the organization of the specification sections and of sufficient detail acceptable to ODR. The accepted Schedule of Values will be the basis for the progress payments under the Contract.

10.1.1 No progress payments will be made prior to receipt and acceptance of the Schedule of Values, provided in such detail as required by ODR, and submitted not less than twenty-one (21) days prior to the first request for payment. The Schedule of Values shall follow the order of trade divisions of the Specifications and include itemized costs for general conditions, costs for preparing close out documents, fees, contingencies, and Owner cash allowances, if applicable, so that the sum of the items will equal the Contract price. As appropriate, assign each item labor and/or material values, the subtotal thereof equaling the value of the work in place when complete.

10.1.1.1 Owner requires that the Work items be inclusive of the cost of the Work items only. Any contract markups for overhead and profit, general conditions, etc., shall be contained within separate line items for those specific purposes which shall be divided into at least two(2) lines, one (1) for labor and one (1) for materials.

10.1.2 Contractor shall retain a copy of all worksheets used in preparation of its bid or proposal, supported by a notarized statement that the worksheets are true and complete copies of the documents used to prepare the bid or proposal. Make the worksheets available to ODR at the time of Contract execution. Thereafter Contractor shall grant Owner during normal business hours access to said copy of worksheets at any time during the period commencing upon execution of the Contract and ending one year after final payment.

10.2. Progress Payments. Contractor will receive periodic progress payments for Work performed, materials in place, suitably stored on Site, or as otherwise agreed to by Owner and Contractor. Payment is not due until receipt by ODR or his designee of a correct and complete Pay Application in electronic and hard copy format and certified by A/E. Progress payments are made provisionally and do not constitute acceptance of work not in accordance with the Contract Documents. Owner will not process progress payment applications for Change Order Work until all parties execute the Change Order.

10.2.1 Preliminary Pay Worksheet. Once each month that a progress payment is to be requested, the Contractor shall submit to A/E and ODR a complete, clean copy of a preliminary pay worksheet or preliminary pay application, to include the following:

10.2.1.1 Contractor's estimate of the amount of Work performed, labor furnished and materials incorporated into the Work, using the established Schedule of Values;

10.2.1.2 An updated Work Progress Schedule including the executive summary and all required schedule reports;

10.2.1.3 HUB subcontracting plan Progress Assessment Report as required in Paragraph 4.2.5.1;

10.2.1.4 Reimbursable expenses incurred solely and directly in support of the Project as agreed upon between Owner and A/E or Contractor. Provided that travel expenditures are at the State of Texas reimbursable rates, are at actual cost incurred, or are otherwise agreed upon by Owner.

10.2.1.5 Such additional documentation as Owner may require as set forth in the Supplementary General Conditions or elsewhere in the Contract Documents; and

10.2.1.6 Construction payment affidavit.

10.2.2 Contractor's Application for Payment. As soon as practicable, but in no event later than seven (7) days after receipt of the preliminary pay worksheet, A/E and ODR will meet with Contractor to review the preliminary pay worksheet and to observe the condition of the Work. Based on this review, ODR and A/E may require modifications to the preliminary pay worksheet prior to the submittal of an Application for Payment, and will promptly notify Contractor of revisions necessary for approval. As soon as practicable, Contractor shall submit its Application for Payment on the appropriate and completed form, reflecting the required modifications to the Schedule of Values required by A/E and/or ODR. Attach all additional documentation required by ODR and/or A/E, as well as an affidavit affirming that all payrolls, bills for labor, materials, equipment, subcontracted work and other indebtedness connected with Contractor's Application for Payment are paid or will be paid within the time specified in Tex. Gov't Code, Ch. 2251. No Application for Payment is complete unless it fully reflects all required modifications, and attaches all required documentation including Contractor's affidavit.

10.2.3 Certification by Architect/Engineer. Within five (5) days or earlier following A/E's receipt of Contractor's formal Application for Payment, A/E will review the Application for Payment for completeness, and forward it to ODR. A/E will certify that the application is complete and payable, or that it is incomplete, stating in particular what is missing. If the Application for Payment is incomplete, Contractor shall make the required corrections and resubmit the Application for Payment for processing.

10.3 Owner's Duty to Pay. Owner has no duty to pay the Contractor except on receipt by ODR of: 1) a complete Application for Payment certified by A/E; 2) Contractor's updated Work Progress Schedule; and 3) confirmation that Contractor's record documentation at the Site is kept current.

- 10.3.1 Payment for stored materials and/or equipment confirmed by Owner and A/E to be on-site or otherwise properly stored is limited to eighty-five (85) percent of the invoice price or eighty-five (85) percent of the scheduled value for the materials or equipment, whichever is less.
- 10.3.2 Retainage. Owner will withhold from each progress payment, as retainage, five (5) percent of the total earned amount when the contract price estimate is equal to or greater than four hundred thousand dollars (\$400,000) and ten (10) percent of the total earned amount when the contract price estimate is less than four hundred thousand dollars (\$400,000), the amount authorized by law, or as otherwise set forth in the Contract Documents. Retainage is managed in conformance with Tex. Gov't Code, Ch. 2252, Subch. B.
- 10.3.2.1 Contractor shall provide written consent of its surety for any request for reduction or release of retainage.
- 10.3.2.2 At least sixty-five (65) percent of the Contract, or such other discrete Work phase as set forth in Subsection 12.1.6 or Work package delineated in the Contract Documents, must be completed before Owner can consider a retainage reduction or release.
- 10.3.2.3 Contractor shall not withhold retainage from their Subcontractors and suppliers in amounts that are any percentage greater than that withheld in its Contract with Owner under this subsection, unless otherwise acceptable to Owner.
- 10.3.3 Price Reduction to Cover Loss. Owner may reduce any Application for Payment, prior to payment to the extent necessary to protect Owner from loss on account of actions of Contractor including, but not limited to, the following:
- 10.3.3.1 Defective or incomplete Work not remedied;
- 10.3.3.2 Damage to Work of a separate Contractor;
- 10.3.3.3 Failure to maintain scheduled progress or reasonable evidence that the Work will not be completed within the Contract Time;
- 10.3.3.4 Persistent failure to carry out the Work in accordance with the Contract Documents;
- 10.3.3.5 Reasonable evidence that the Work cannot be completed for the unpaid portion of the Contract Sum;
- 10.3.3.6 Assessment of fines for violations of prevailing wage rate law; or
- 10.3.3.7 Failure to include the appropriate amount of retainage for that periodic progress payment.

10.3.4 Title to all material and Work covered by progress payments transfers to Owner upon payment.

10.3.4.1 Transfer of title to Owner does not relieve Contractor and its Subcontractors of the sole responsibility for the care and protection of materials and Work upon which payments have been made until substantial completion, responsibility for the care and protection of materials and Work in areas where punch list items are completed until final completion or the restoration of any damaged Work, or waive the right of Owner to require the fulfillment of all the terms of the Contract.

10.4 Progress Payments. Progress payments to Contractor do not release Contractor or its surety from any obligations under the Contract.

10.4.1 Upon Owner's request, Contractor shall furnish manifest proof of the status of Subcontractor's accounts in a form acceptable to Owner.

10.4.2 Pay estimate certificates must be signed by a corporate officer or a representative duly authorized by Contractor.

10.4.3 Provide copies of bills of lading, invoices, delivery receipts or other evidence of the location and value of such materials in requesting payment for materials.

10.4.4 For purposes of Tex. Gov't Code § 2251.021(a)(2), the date the performance of service is complete is the date when ODR approves the Application for Payment.

10.5 Off-Site Storage. With prior approval by Owner and in the event Contractor elects to store materials at an off-site location, abide by the following conditions, unless otherwise agreed to in writing by Owner.

10.5.1 Store materials in a commercial warehouse meeting the criteria stated below.

10.5.2 Provide insurance coverage adequate not only to cover materials while in storage, but also in transit from the off-site storage areas to the Project Site. Copies of duly authenticated certificates of insurance, made out to insure the State agency which is signatory to the Contract, must be filed with Owner's representative.

10.5.3 Inspection by Owner's representative is allowed at any time. Owner's inspectors must be satisfied with the security, control, maintenance, and preservation measures.

10.5.4 Materials for this Project are physically separated and marked for the Project in a sectioned-off area. Only materials which have been approved through the submittal process are to be considered for payment.

10.5.5 Owner reserves the right to reject materials at any time prior to final acceptance

of the complete Contract if they do not meet Contract requirements regardless of any previous progress payment made.

10.5.6 With each monthly payment estimate, submit a report to ODR and A/E listing the quantities of materials already paid for and still stored in the off-site location.

10.5.7 Make warehouse records, receipts and invoices available to Owner's representatives, upon request, to verify the quantities and their disposition. In the event of Contract termination or default by Contractor, the items in storage off-site, upon which payment has been made, will be promptly turned over to Owner or Owner's agents at a location near the jobsite as directed by ODR. The full provisions of performance and payment bonds on this Project cover the materials off-site in every respect as though they were stored on the Project Site.

10.6 Time for Payment by Contractor Pursuant to Tex. Gov't Code § 2255.022.

10.6.1 Contractor who receives a payment from a governmental entity shall pay Subcontractor the appropriate share of the payment not later than the tenth (10th) day after the date Contractor receives the payment.

10.6.2 The appropriate share is overdue on the eleventh (11th) day after the date Contractor receives the payment.

Article 11. Changes

11.1 Change Orders. A Change Order issued after execution of the Contract is a written order to Contractor, signed by ODR, Contractor, and A/E, authorizing a change in the Work or an adjustment in the Contract Sum or the Contract Time. The Contract Sum and the Contract Time can only be changed by Change Order. A Change Order signed by Contractor indicates his agreement therewith, including the adjustment in the Contract Sum and/or the Contract Time. ODR may issue a written authorization for Contractor to proceed with Work of a Change Order in advance of final execution by all parties in accordance with Section 11.9.

11.1.1 Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, and the Contract Sum and the Contract Time will be adjusted accordingly. All such changes in the Work shall be authorized by Change Order or ULCO, and shall be performed under the applicable conditions of the Contract Documents. If such changes cause an increase or decrease in Contractor's cost of, or time required for, performance of the Contract, an equitable adjustment shall be made and confirmed in writing in a Change Order or a ULCO.

11.1.2 It is recognized by the parties hereto and agreed by them that the Specifications and Drawings may not be complete or free from errors, omissions and imperfections or that they may require changes or additions in order for the

Work to be completed to the satisfaction of Owner and that, accordingly, it is the express intention of the parties, notwithstanding any other provisions in this Contract, that any errors, omissions or imperfections in such Specifications and Drawings, or any changes in or additions to same or to the Work ordered by Owner and any resulting delays in the Work or increases in Contractor's costs and expenses arising out of such errors, shall not constitute or give rise to any claim, demand or cause of action of any nature whatsoever in favor of Contractor, whether for breach of Contract, or otherwise; provided, however, that Owner shall be liable to Contractor for the sum stated to be due Contractor in any Change Order approved and signed by both parties, it being agreed hereby that such sum, together with any extension of time contained in said Change Order, shall constitute full compensation to Contractor for all costs, expenses and damages to Contractor, as permitted under Tex. Gov't Code, Ch. 2260.

11.1.3 Procedures for administration of Change Orders shall be established by Owner and stated in Supplementary General Conditions, Special Conditions, or elsewhere in the Contract Documents.

11.1.4 No verbal order, verbal statement, or verbal direction of Owner or his duly appointed representative shall be treated as a change under this article or entitle Contractor to an adjustment.

11.1.5 Contractor agrees that Owner or any of its duly authorized representatives shall have access and the right to examine any directly pertinent books, documents, papers, and records of Contractor. Further, Contractor agrees to include in all its subcontracts a provision to the effect that Subcontractor agrees that Owner or any of its duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers and records of such Subcontractor relating to any claim arising from the Contract, whether or not the Subcontractor is a party to the claim. The period of access and examination described herein which relates to appeals under the Disputes article of the Contract, litigation, or the settlement of claims arising out of the performance of the Contract shall continue until final disposition of such claims, appeals or litigation.

11.2 Unit Prices. If unit prices are stated in the Contract Documents or subsequently agreed upon, and if the quantities originally contemplated are so changed in a Proposed Change Order that application of the agreed unit prices to the quantities of work proposed will cause substantial inequity to Owner or Contractor, the applicable unit prices shall be equitably adjusted as provided in the Supplementary General Conditions or Special Conditions or as agreed to by the parties and incorporated into a Change Order.

11.3 Claims for Additional Costs.

11.3.1 If Contractor wishes to make a claim for an increase in the Contract Sum not related to a requested change, they shall give Owner and A/E written notice thereof within twenty-one (21) days after the occurrence of the event giving

rise to such claim, but, in any case before proceeding to execute the Work considered to be additional cost or time, except in an emergency endangering life or property in which case Contractor shall act in accordance with Subsection 7.2.1. No such claim shall be valid unless so made. If Owner and Contractor cannot agree on the amount of the adjustment in the Contract Sum, it shall be determined as set forth under Article 15. Any change in the Contract Sum resulting from such claim shall be authorized by a Change Order or a ULCO.

11.3.2 If Contractor claims that additional cost is involved because of, but not limited to, 1) any written interpretation of the Contract Documents, 2) any order by Owner to stop the Work pursuant to Article 14 where Contractor was not at fault, or 3) any written order for a minor change in the Work issued pursuant to Section 11.4, Contractor shall make such claim as provided in Subsection 11.3.1.

11.3.3 Should Contractor or his Subcontractors fail to call attention of A/E to discrepancies or omissions in the Contract Documents, but claim additional costs for corrective Work after Contract award, Owner may assume intent to circumvent competitive bidding for necessary corrective Work. In such case, Owner may choose to let a separate Contract for the corrective Work, or issue a ULCO to require performance by Contractor. Claims for time extensions or for extra cost resulting from delayed notice of patent Contract Document discrepancies or omissions will not be considered by Owner.

11.4 Minor Changes. A/E, with concurrence of ODR, will have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time. Such changes shall be effected by written order which Contractor shall carry out promptly and record on as-built record documents.

11.5 Concealed Site Conditions. Contractor is responsible for visiting the Site and being familiar with local conditions such as the location, accessibility, and general character of the Site and/or building. If, in the performance of the Contract, 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 disclosed differing materially from the conditions usually inherent in Work of the character shown and specified, ODR and A/E shall be notified in writing of such conditions before they are further disturbed or subsequent related work proceeds. Upon such notice, or upon its own observation of such conditions, A/E, with the approval of ODR, will promptly make such changes in the Drawings and Specifications as they deem necessary to conform to the different conditions, and any increase or decrease in the cost of the Work, or in the time within which the Work is to be completed, resulting from such changes will be adjusted by Change Order, subject to the prior approval of ODR.

11.6 Extension of Time. All changes to the Contract Time shall be made as a consequence of requests as required under Section 9.6, and as documented by Change Order as provided under Section 11.1.

11.7 Administration of Change Order Requests. All changes in the Contract shall be

administered in accordance with procedures approved by Owner, and when required, make use of such electronic information management system(s) as Owner may employ.

- 11.7.1 Routine changes in the construction Contract shall be formally initiated by A/E by means of a PCO form detailing requirements of the proposed change for pricing by Contractor. This action may be preceded by communications between Contractor, A/E and ODR concerning the need and nature of the change, but such communications shall not constitute a basis for beginning the proposed Work by Contractor. Except for emergency conditions described below, approval of Contractor's cost proposal by A/E and ODR will be required for authorization to proceed with the Work being changed. Owner will not be responsible for the cost of Work changed without prior approval and Contractor may be required to remove Work so installed.
- 11.7.2 All proposed costs for change order Work must be supported by itemized accounting of material, equipment and associated itemized installation costs in sufficient detail, following the outline and organization of the establish Schedule of Values, to permit analysis by A/E and ODR using current estimating guides and/or practices. Photocopies of Subcontractor and vendor proposals shall be furnished. Contractor shall provide written response to a change request within twenty-one (21) days of receipt.
- 11.7.3 Any unexpected circumstance which necessitates an immediate change in order to avoid a delay in progress of the Work may be expedited by verbal communication and authorization between Contractor and Owner, with written confirmation following within twenty-four (24) hours. A limited scope not-to-exceed estimate of cost and time will be requested prior to authorizing Work to proceed. Should the estimate be impractical for any reason, ODR may authorize the use of detailed cost records of such work to establish and confirm the actual costs and time for documentation in a formal Change Order.
- 11.7.4 Emergency changes to save life or property may be initiated by Contractor alone (see Section 7.3) with the claimed cost and/or time of such work to be fully documented as to necessity and detail of the reported costs and/or time.
- 11.7.5 The method of incorporating approved Change Orders into the parameters of the accepted Schedule of Values must be coordinated and administered in a manner acceptable to ODR.
- 11.8 Pricing Change Order Work. Contractor will be entitled to mark-up the costs of change orders in an amount equal to the agreed upon fee as stated in the Contract. The following percentage amounts are the maximum amounts the Contractor's subcontractors will be allowed to add to the net additive amount or net deductive amount of the change orders:
 - 11.8.1 For Work performed by its forces, Contractor will be allowed their actual costs for materials, the total amount of wages (including benefits) paid for labor, plus the total cost of State and Federal payroll taxes and of worker's compensation

and comprehensive general liability insurance, plus additional bond and builders risk insurance cost if the change results in an increase in the premium paid by Contractor. To the total of the above costs, Contractor will be allowed to add a percentage as noted below to cover overhead and profit combined. Allowable percentages for overhead and profit on any specific change shall not exceed twelve (12) percent for the first \$10,000 of value for self-performed work or portion thereof, ten (10) percent for the second \$10,000 of value for self-performed work or portion thereof and seven and a half (7.5) percent for any value of the self-performed work that exceeds \$20,000.

- 11.8.2 When change order work is performed by a subcontractor or subcontractors working for the Subcontractor, each affected Subcontractor shall figure its costs, overhead and profit as described below for subcontractor's self-performed Work. All Subcontractor costs shall be combined, and to that total Subcontractor cost Contractor will be allowed to add a maximum mark-up of ten (10) percent for the first \$10,000 of subcontracted Work value or portion thereof, seven and half (7.5) percent for the second \$10,000 of subcontracted Work value or portion thereof, and five (5) percent for any value of the subcontracted Work exceeding \$20,000.
- 11.8.3 On changes involving both additions and deletions, percentages for overhead and profit as stated in 11.8, 11.8.1, and 11.8.2 will be computed in the same manner on the net addition or the net deduction of any change order amount. Owner does not accept and will not pay for additional Contract cost identified as indirect or consequential damages.
- 11.8.4 For Contracts based on a Guaranteed Maximum Price (GMP), the Construction Manager-at-Risk or Design Builder shall NOT be entitled to a percentage mark-up on any Change Order Work unless the Change Order increases the Guaranteed Maximum Price.
- 11.8.5 It is understood that these contract provisions will govern the pricing and administration of all change order proposals to be submitted by Contractor and/or all other lower-tier subcontractors (all referred to as "Subcontractors"). Contractor agrees that it will incorporate the provisions of this Article 11.8.5 into all agreements with lower tier Subcontractors who will also include these change order pricing requirements into agreements with all lower tier subcontractors, etc. It is understood that these change order pricing provisions apply to all types of contracts and/or subcontracts specifically including lump sum (or fixed price contracts), unit price contracts. It is further understood that these change order provisions will apply to all methods of change order pricing specifically including lump sum change order proposals, unit price change order proposals, and cost-plus Fee change order proposals. Whenever change order proposals to adjust the contract price become necessary, Owner will have the right to select the method of pricing to be used by Subcontractor in accordance with these pricing provisions. The options will be (1) lump sum change order proposal, (2) unit price change order proposals, or (3) cost plus Fee change order proposal as defined in the following provisions:

11.8.5.1 Lump Sum Change Order Proposals: Subcontractor will submit a property itemized Lump Sum Change Order Proposal covering the additional work and/or the work to be deleted. This proposal will be itemized for the various components of work and segregated by labor, material, and equipment in a detailed format satisfactory to Owner. Owner will require itemized change orders on all change order proposals from the Subcontractor, regardless of tier. Details to be submitted will include detailed line item estimates showing detailed materials quantity take-offs, material prices by item and related labor hour pricing information and extensions (by line item or by drawing as applicable).

11.8.5.2 Labor: Estimated labor costs to be included for self-performed work shall be based on the actual cost per hour paid by the Subcontractor for those workers or crews of workers who the subcontractor reasonably anticipates will perform the change order work. Estimated labor hours shall include hours only for those workmen and working foremen directly involved in performing the change order work. Supervision above the level of working foremen (such as general foremen, non-working foremen, superintendent, project manager, etc.) is considered to be included in the Markup Percentages as outlined in this Article 11.8. Note: No separate allowances for warranty or safety expenses will be allowed as a direct cost of a change order. Costs attributed to warranty expenses and safety expense will be considered to be covered by the Markup Percentages of this Article 11.8.

11.8.5.3 Labor Burden: Labor burden allowable in change orders shall be defined as employer's net actual cost of payroll taxes (FICA, Medicare, SUTA, FUTA), net actual cost for employer's cost of union benefits (or other usual and customary fringe benefits if the employees are not union employees), and net actual cost to employer for worker's compensation insurance taking into consideration adjustments for experience modifiers, premium discounts, dividends, rebates, expense constants, assigned risk pool costs, net cost reductions due to policies with deductibles for self-insured losses, assigned risk rebates, etc. Subcontractor shall reduce their standard payroll tax percentages to properly reflect the effective cost reduction due to the estimated impact of the annual maximum wages subject to payroll taxes. (An estimated percentage for labor burden may be used for pricing change orders. However, the percentage used for labor burden to price change orders will be examined at the conclusion of the project and an adjustment to the approved change orders will be processed if it is determined that the actual labor burden percentage should have been more or less than the estimated percentage used.)

11.8.5.4 Non-Reimbursable Labor Burden: Employee Stock Ownership Plan (ESOP) related fringe benefit costs are specifically considered non-reimbursable labor burden and any ESOP costs are considered covered by the allowable change order markups to cover overhead and profit.

11.8.5.5 Material: Estimated material change order costs shall reflect the Subcontractor's reasonably anticipated net actual cost for the purchase of the material needed for the change order work. Estimated material costs shall reflect

cost reductions available to the Contractor due to “non-Cash” discounts, trade discounts, free material credits, and/or volume rebates. “Cash” discounts (i.e. prompt payment discounts of 1.5% or less) available on material purchased for change order work shall be credited to Owner if the Subcontractor is provided Owner funds in time for Subcontractor to take advantage of any such “cash” discounts. Price quotations from material suppliers must be itemized with unit prices for each specific item to be purchased. "Lot pricing" quotations will not be considered sufficient substantiating detail.

11.8.5.6 Equipment: Allowable change order estimated costs may include appropriate amounts for rental of major equipment specifically needed to perform the change order work (defined as tools and equipment with an individual purchase cost of more than \$750). For subcontractor owned equipment, the "bare" equipment rental rates allowed to be used for pricing change order proposals shall be 75% of the monthly rate listed in the most current publication of The AED Green Book divided by 173.3 to arrive at a maximum hourly rate to be applied to the hours the equipment is used performing the change order work. Further, for subcontractor owned equipment the aggregate equipment rent charges for any single piece of equipment used in all change order work shall be limited to 50% of the fair market value of the piece of equipment when the first change order is priced involving usage of the piece of equipment. Fuel necessary to operate the equipment will be considered as a separate direct cost associated with the change order work.

11.8.5.7 No Markup on Bonds and Liability Insurance Costs: Change Order cost adjustments due increases or decreases in bond or insurance costs (if applicable) shall not be subject to any Markup Percentage Fee.

11.8.5.8 Direct and Indirect Costs Covered by Markup Percentages: As a further clarification, the agreed upon Markup Percentage Fee is intended to cover the Subcontractor's profit and all indirect costs associated with the change order work. Items intended to be covered by the Markup Percentage Fee include, but are not limited to: home office expenses, branch office and field office overhead expense of any kind; project management; superintendents, general foremen; non-working foremen, estimating, engineering; coordinating; expediting; purchasing; detailing; legal, accounting, data processing or other administrative expenses; shop drawings; permits; auto insurance and umbrella insurance; pick-up truck costs; ESOP related costs; and warranty expense costs. The cost for the use of small tools is also to be considered covered by the Markup Percentage Fee. Small tools shall be defined as tools and equipment (power or non-power) with an individual purchase cost of less than \$750.

11.8.5.9 Contingency: In no event will any lump sum or percentage amounts for "contingency" be allowed to be added as a separate line item in change order estimates. Unknowns attributable to labor hours will be accounted for when estimating labor hours anticipated to perform the work. Unknowns attributable to material scrap and waste will be estimated as part of material costs.

11.8.5.10 General Liability Insurance and Bonds: In the event the Subcontractor has been required to furnish comprehensive general liability insurance and/or performance and/or payment bonds as part of the base contract price, a final contract change order will be processed to account for the Subcontractor's net increase or decrease in comprehensive general liability insurance costs and/or net bond premium costs associated with change orders to Subcontractor's base contract price. Note: If a change order or a separate payment is made to reimburse the Subcontractor for the cost of a Performance and/or Payment Bond, the Subcontractor will be required to remit any bond dividend or rebate that it will receive from the Surety after the successful completion of the project.

11.8.5.11 Unit Price Change Order Proposals: As an alternative to Lump Sum Change Order Proposals, Owner or the Contractor acting with the approval of Owner may choose the option to use Contract Unit Prices. Agreed upon Contract Unit Prices shall be the same for added quantities and deductive quantities. Unit Prices are not required to be used for pricing change orders where other methods of pricing change order work are more equitable.

11.8.5.12 Subcontractor will submit, within seven (7) days after receipt of Owner's written request for a Unit Price Proposal, a written Unit Price proposal itemizing the quantities of each item of work for which there is an applicable Contract Unit Price. The quantities must be itemized in relation to each specific contract drawing.

11.8.5.13 Contract Unit Prices will be applied to net differences of quantities of the same item. Such Contract Unit Prices will be considered to cover all direct and indirect costs of furnishing and installing the item including the subcontractor's Markup Percentage Fee.

11.8.5.14 Cost Plus Change Order Proposals: As an alternative to either Lump Sum Change Order Proposals or Unit Price Change Order Proposals, Owner may elect to have any extra work performed on a cost-plus markup percentage fee basis. Upon written notice to proceed, Contractor and/or Subcontractors shall perform such authorized extra work at actual cost for direct labor (working foremen, journeymen, apprentices, helpers, etc.), actual cost of labor burden, actual cost of material used to perform the extra work, and actual cost of rental of major equipment (without any charge for administration, clerical expense, general supervision or superintendent of any nature whatsoever, including general foremen, or the cost or rental of small tools, minor equipment, or plant) plus the approved Markup Percentage Fee. The intent of this clause is to define allowable cost plus chargeable costs to be the same as those allowable when pricing Lump Sum Change. Owner and Subcontractor may agree in advance in writing on a maximum price for this work and Owner shall not be liable for any charge in excess of the maximum. Daily time sheets with names of all Contractor and/or Subcontractor employees working on the project will be required to be submitted to Owner for both labor and equipment used for time periods during which extra work is performed on a cost plus fee basis. Daily time sheets will break down the paid hours worked

by the Contractor and/or Subcontractor employees showing both base contract work as well as extra work performed by each employee.

11.8.5.15 Accurate Change Order Pricing Information: Contractor (subcontractor or sub-subcontractor) agrees that it is responsible for submitting accurate cost and pricing data to support its Lump Sum Change and/or Cost plus Change Order Proposals or other contract price adjustments under the Contract. Contractor further agrees to submit change order proposals with cost and pricing data which is accurate, complete, current, and in accordance with the terms of the contract with respect to pricing of change orders. Contractor agrees that any “buy-out savings” on change orders shall accrue 100% to Owner. “Buy-out savings” are defined as any savings negotiated by the Contractor with a subcontractor or a material supplier after receiving approval of a change order amount that was designated to be paid to a specific subcontractor or supplier for the approved change order work.

11.8.5.16 Right to Verify Change Order Pricing Information: Contractor, subcontractor and sub-sub-contractor agrees that any designated Owner's representative will have the right to examine (copy or scan) the records of the Contractor, subcontractor or sub-sub contractor's records (during the contract period and up to three years after final payment is made on the contract) to verify the accuracy and appropriateness of the pricing data used to price all change order proposals and/or claims. Contractor agrees that if Owner determines the cost and pricing data submitted (whether approved or not) was inaccurate, incomplete, not current, or not in compliance with the terms of the contract regarding pricing of change orders, an appropriate contract price adjustment will be made. Such post-approval contract price adjustments will apply to all levels of contractors and/or subcontractors and to all types of change order proposals specifically including lump sum change orders, unit price change orders, and cost-plus change orders.

11.8.5.17 Requirements for Detailed Change Order Pricing Information: Contractor, subcontractor agrees to provide and require all Subcontractors and sub-subcontractors to provide a breakdown of allowable labor and labor burden cost information. This information will be used to evaluate the potential cost of labor and labor burden related to change order work. It is intended that this information represent an accurate estimate of the Contractor's actual labor and labor burden cost components. This information is not intended to establish fixed billing or change order pricing labor rates. However, at the time change orders are priced, the submitted cost data for labor rates may be used to price change order work. The accuracy of any such agreed upon labor cost components used to price change orders will be subject to later audit. Approved change order amounts may be adjusted later to correct the impact of inaccurate labor cost components if the agreed upon labor cost components are determined to be inaccurate.

11.8.5.18 Discounts: If a Contractor enters into an agreement to pay a subcontractor before they receive payment by the Owner and in return they negotiate an early payment discount, the amount of any such discount that the

contractor is allowed to keep as a “cash discount earned” will be limited to one and ½ percent (1.5%) of the costs subject to discount. Any percentage of discount greater than one and ½ percent (1.5%) shall be credited to Owner as a reduction to the reimbursable Cost of Work and a credit to trade contracts or material purchases, and change orders as applicable.

- 11.9 Unilateral Change Order (ULCO). Owner may issue a written ULCO directing a change in the Work prior to reaching agreement with Contractor on the adjustment, if any, in the Contract price and/or the Contract Time.

11.9.1 Owner and Contractor shall negotiate for appropriate adjustments, as applicable, to the Contract Sum or the Contract Time arising out of a ULCO. As the changed Work is performed, Contractor shall submit its costs for such Work with its Application for Payment beginning with the next Application for Payment within thirty (30) days of the issuance of the ULCO. The Parties reserve their rights as to the disputed amount, subject to Article 15.

- 11.10 Final Resolution of Changes. Upon execution of a Change Order and/or a ULCO by Owner, Contractor and A/E, all costs and time issues regarding that change are final and not subject to additive adjustments unless the adjustments are the results of Owner’s audit of change order pricing in accordance with the provisions included in Article 11.8.5.

Article 12. Project Completion and Acceptance

- 12.1 Closing Inspections.

12.1.1 Substantial Completion Inspection. When Contractor considers the entire Work or part thereof Substantially Complete, it shall notify ODR in writing that the Work will be ready for Substantial Completion inspection on a specific date. Contractor shall include with this notice Contractor’s Punchlist to indicate that it has previously inspected all the Work associated with the request for inspection, noting items it has corrected and including all remaining work items with date scheduled for completion or correction prior to final inspection. The failure to include any items on this list does not alter the responsibility of Contractor to complete all Work in accordance with the Contract Documents. If any of the items on this list prevents the Project from being used as intended, Contractor shall not request a Substantial Completion Inspection. Owner and its representatives will review the list of items and schedule the requested inspection, or inform Contractor in writing that such an inspection is premature because the Work is not sufficiently advanced or conditions are not as represented on Contractor’s list.

12.1.1.1 Prior to the Substantial Completion inspection, Contractor shall furnish a copy of its marked-up Record Documents and a preliminary copy of each instructional manual, maintenance and operating manual, parts catalog, wiring diagrams, spare parts, specified written warranties, and like publications or parts for all installed equipment,

systems, and like items as described in the Contract Documents. Delivery of these items is a prerequisite for requesting the Substantial Completion inspection.

- 12.1.1.2 On the date requested by Contractor, or as mutually agreed upon pending the status of the Open Items List, A/E, ODR, Contractor, and other Owner representatives as determined by Owner will jointly attend the Substantial Completion inspection, which shall be conducted by ODR or their delegate. If ODR determines that the Work is Substantially Complete, ODR will issue a Certificate of Substantial Completion to be signed by A/E, Owner, and Contractor establishing the date of Substantial Completion and identifying responsibilities for security, maintenance, insurance and utilities. A/E will provide with this certificate a consolidated list of Punchlist items (the pre-final Punchlist including all items noted by the various inspecting parties) for completion prior to final inspection. This list may include items in addition to those on Contractor's Punchlist, which the inspection team deems necessary to correct or complete prior to final inspection. The failure to include any items on this list does not alter the responsibility of Contractor to complete all Work in accordance with the Contract Documents. If Owner occupies the Project upon determination of Substantial Completion, Contractor shall complete all corrective Work at the convenience of Owner, without disruption to Owner's use of the Project for its intended purposes.
- 12.1.2 Final Inspection. Contractor shall complete the list of items identified on the pre-final Punchlist prior to requesting a final inspection. Unless otherwise specified, or otherwise agreed in writing by the parties as documented on the Certificate of Substantial Completion, Contractor shall complete and/or correct all Work within thirty (30) days of the Substantial Completion date. Upon completion of the pre-final Punchlist work, Contractor shall give written notice to ODR and A/E that the Work will be ready for final inspection on a specific date. Contractor shall accompany this notice with a copy of the updated pre-final Punchlist indicating resolution of all items. On the date specified or as soon thereafter as is practicable, ODR, A/E and Contractor will inspect the Work. A/E will submit to Contractor a final Punchlist of open items that the inspection team requires corrected or completed before final acceptance of the Work.
- 12.1.2.1 Correct or complete all items on the final Punchlist before requesting Final Payment. Unless otherwise agreed to in writing by the parties, complete this work within seven (7) days of receiving the final Punchlist. Upon completion of the final Punchlist, notify A/E and ODR in writing stating the disposition of each final Punchlist item. A/E, Owner, and Contractor shall promptly inspect the completed items. When the final Punchlist is complete, and the Contract is fully satisfied according to the Contract Documents ODR will issue a certificate establishing the date of Final Completion. Completion of

all Work is a condition precedent to Contractor's right to receive Final Payment.

12.1.3 Annotation. Any Certificate issued under this Article may be annotated to indicate that it is not applicable to specified portions of the Work, or that it is subject to any limitation as determined by Owner.

12.1.4 Purpose of Inspection. Inspection is for determining the completion of the Work, and does not relieve Contractor of its overall responsibility for completing the Work in a good and competent fashion, in compliance with the Contract. Work accepted with incomplete Punchlist items or failure of Owner or other parties to identify Work that does not comply with the Contract Documents or is defective in operation or workmanship does not constitute a waiver of Owner's rights under the Contract or relieve Contractor of its responsibility for performance or warranties.

12.1.5 Additional Inspections.

12.1.5.1 If Owner's inspection team determines that the Work is not substantially complete at the Substantial Completion inspection, ODR or A/E will give Contractor written notice listing cause(s) of the rejection. Contractor will set a time for completion of incomplete or defective work acceptable to ODR. Contractor shall complete or correct all work so designated prior to requesting a second Substantial Completion inspection.

12.1.5.2 If Owner's inspection team determines that the Work is not complete at the final inspection, ODR or A/E will give Contractor written notice listing the cause(s) of the rejection. Contractor will set a time for completion of incomplete or defective work acceptable to ODR. Contractor shall complete or correct all Work so designated prior to again requesting a final inspection.

12.1.5.3 The Contract contemplates three (3) comprehensive inspections: the Substantial Completion inspection, the Final Completion inspection, and the inspection of completed final Punchlist items. The cost to Owner of additional inspections resulting from the Work not being ready for one or more of these inspections is the responsibility of Contractor. Owner may issue a ULCO deducting these costs from Final Payment. Upon Contractor's written request, Owner will furnish documentation of any costs so deducted. Work added to the Contract by Change Order after Substantial Completion inspection is not corrective Work for purposes of determining timely completion, or assessing the cost of additional inspections.

12.1.6 Phased Completion. The Contract may provide, or Project conditions may warrant, as determined by ODR, that designated elements or parts of the Work be completed in phases. Where phased completion is required or specifically agreed to by the parties, the provisions of the Contract related to closing inspections, occupancy, and acceptance apply independently to each

designated element or part of the Work. For all other purposes, unless otherwise agreed by the parties in writing, Substantial Completion of the Work as a whole is the date on which the last element or part of the Work completed receives a Substantial Completion certificate.

Final Completion of the Work as a whole is the date on which the last element or part of the Work completed receives a Final Completion certificate.

- 12.2 Owner's Right of Occupancy. Owner may occupy or use all or any portion of the Work following Substantial Completion, or at any earlier stage of completion. Should Owner wish to use or occupy the Work, or part thereof, prior to Substantial Completion, ODR will notify Contractor in writing and identify responsibilities for security, maintenance, insurance and utilities. Work performed on the premises by third parties on Owner's behalf does not constitute occupation or use of the Work by Owner for purposes of this Article. All Work performed by Contractor after occupancy, whether in part or in whole, shall be at the convenience of Owner so as to not disrupt Owner's use of, or access to occupied areas of the Project.

12.3 Acceptance and Payment

- 12.3.1 Request for Final Payment. Following the certified completion of all work, including all final Punchlist items, cleanup, and the delivery of record documents, Contractor shall submit a certified Application for Final Payment and include all sums held as retainage and forward to A/E and ODR for review and approval.

- 12.3.2 Final Payment Documentation. Contractor shall submit, prior to or with the Application for Final Payment, final copies of all close out documents, maintenance and operating instructions, guarantees and warranties, certificates, Record Documents and all other items required by the Contract.

Contractor shall submit evidence of return of access keys and cards, evidence of delivery to Owner of attic stock, spare parts, and other specified materials. Contractor shall submit consent of surety to Final Payment form and an affidavit that all payrolls, bills for materials and equipment, subcontracted work and other indebtedness connected with the Work, except as specifically noted, are paid, will be paid, after payment from Owner or otherwise satisfied within the period of time required by Tex. Gov't Code, Ch. 2251. Contractor shall furnish documentation establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of claims and liens arising out of the Contract. Contractor may not subsequently submit a claim on behalf of Subcontractor or vendor unless Contractor's affidavit notes that claim as an exception.

- 12.3.3 Architect/Engineer Approval. A/E will review a submitted Application for Final Payment promptly but in no event later than ten (10) days after its receipt. Prior to the expiration of this deadline, A/E will either: 1) return the Application for Final Payment to Contractor with corrections for action and resubmission; or 2) accept it, note their approval, and send to Owner.

- 12.3.4 Offsets and Deductions. Owner may deduct from the Final Payment all

sums due from Contractor. If the Certificate of Final Completion notes any Work remaining, incomplete, or defects not remedied, Owner may deduct the cost of remedying such deficiencies from the Final Payment. On such deductions, Owner will identify each deduction, the amount, and the explanation of the deduction on or by the twenty-first (21st) day after Owner's receipt of an approved Application for Final Payment. Such offsets and deductions shall be incorporated via a final Change Order, including a ULCO as may be applicable.

12.3.5 Final Payment Due. Final Payment is due and payable by Owner, subject to all allowable offsets and deductions, on the thirtieth (30th) day following Owner's approval of the Application for Payment. If Contractor disputes any amount deducted by Owner, Contractor shall give notice of the dispute on or before the thirtieth (30th) day following receipt of Final Payment. Failure to do so will bar any subsequent claim for payment of amounts deducted.

12.3.6 Effect of Final Payment. Final Payment constitutes a waiver of all claims by Owner, relating to the condition of the Work except those arising from:

12.3.6.1 Faulty or defective Work appearing after Substantial Completion (latent defects);

12.3.6.2 Failure of the Work to comply with the requirements of the Contract Documents;

12.3.6.3 Terms of any warranties required by the Contract, or implied by law; or

12.3.6.4 Claims arising from personal injury or property damage to third parties.

12.3.7 Waiver of Claims. Final payment constitutes a waiver of all claims and liens by Contractor except those specifically identified in writing and submitted to ODR prior to the application for Final Payment.

12.3.8 Effect on Warranty. Regardless of approval and issuance of Final Payment, the Contract is not deemed fully performed by Contractor and closed until the expiration of all warranty periods. Issuance of Final Payment does not alter Contractor's contractual obligations during the warranty period.

Article 13. Warranty and Guarantee

13.1 Contractor's General Warranty and Guarantee. Contractor warrants to Owner that all Work is executed in accordance with the Contract, complete in all parts and in accordance with approved practices and customs, and of the required finish and workmanship. Contractor further warrants that unless otherwise specified, all materials and equipment incorporated in the Work under the Contract are new. Owner may, at its option, agree in writing to waive any failure of the Work to conform to the Contract,

and to accept a reduction in the Contract price for the cost of repair or diminution in value of the Work by reason of such defect. Absent such a written agreement, Contractor's obligation to perform and complete the Work in accordance with the Contract Documents is absolute and is not waived by any inspection or observation by Owner, A/E or others, by making any progress payment or final payment, by the use or occupancy of the Work or any portion thereof by Owner, at any time, or by any repair or correction of such defect made by Owner.

- 13.2 Warranty Period. Except as may be otherwise specified or agreed, Contractor shall repair all defects in materials, equipment, or workmanship appearing within one year from the date of Substantial Completion of the Work. If Substantial Completion occurs by phase, then the warranty period for that particular Work begins on the date of such occurrence, or as otherwise stipulated on the Certificate of Substantial Completion for the particular Work.

- 13.3 Limits on Warranty. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:

13.3.1 Modification or improper maintenance or operation by persons other than Contractor, Subcontractors, or any other individual or entity for whom Contractor is not responsible, unless Owner is compelled to undertake maintenance or operation due to the neglect of Contractor.

13.3.2 Normal wear and tear under normal usage after acceptance of the Work by Owner.

- 13.4 Events Not Affecting Warranty. Contractor's obligation to perform and complete the Work in a good and workmanlike manner in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of defective Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:

13.4.1 Observations by Owner and/or A/E;

13.4.2 Recommendation to pay any progress or final payment by A/E;

13.4.3 The issuance of a certificate of Substantial Completion or any payment by Owner to Contractor under the Contract Documents;

13.4.4 Use or occupancy of the Work or any part thereof by Owner;

13.4.5 Any acceptance by Owner or any failure to do so;

13.4.6 Any review of a Shop Drawing or sample submittal; or

13.4.7 Any inspection, test or approval by others.

- 13.5 Separate Warranties. If a particular piece of equipment or component of the Work for which the Contract requires a separate warranty is placed in continuous service

before Substantial Completion, the warranty period for that equipment or component will not begin until Substantial Completion, regardless of any warranty agreements in place between suppliers and/or Subcontractors and Contractor. ODR will certify the date of service commencement in the Substantial Completion certificate.

13.5.1 In addition to Contractor's warranty and duty to repair, Contractor expressly assumes all warranty obligations required under the Contract for specific building components, systems and equipment.

13.5.2 Contractor may satisfy any such obligation by obtaining and assigning to Owner a complying warranty from a manufacturer, supplier, or Subcontractor. Where an assigned warranty is tendered and accepted by Owner which does not fully comply with the requirements of the Contract, Contractor remains liable to Owner on all elements of the required warranty not provided by the assigned warranty.

13.6 Correction of Defects. Upon receipt of written notice from Owner, or any agent of Owner designated as responsible for management of the warranty period, of the discovery of a defect, Contractor shall promptly remedy the defect(s), and provide written notice to Owner and designated agent indicating action taken. In case of emergency where delay would cause serious risk of loss or damage to Owner, or if Contractor fails to remedy within thirty (30) days, or within another period agreed to in writing, Owner may correct the defect and be reimbursed the cost of remedying the defect from Contractor or its surety.

13.7 Certification of No Asbestos Containing Materials or Work. Contractor shall ensure compliance with the Asbestos Hazard Emergency Response Act (AHERA– 40 C.F.R § 763-99(7)) from all Subcontractors and materials suppliers, and shall provide a notarized certification to Owner that all equipment and materials used in fulfillment of their Contract responsibilities are non-Asbestos Containing Building Materials (ACBM). This certification must be provided no later than Contractor's application for Final Payment.

13.8 Material Safety Data Sheet. Contractor shall submit Material Safety Data Sheets (MSDS) for all products used in the project. These MSDS must be provided no later than Contractor's application for Final Payment.

Article 14. Suspension and Termination

14.1 Suspension of Work for Cause. Owner may, at any time without prior notice, suspend all or any part of the Work, if after reasonable observation and/or investigation, Owner determines it is 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.

14.1.1 Owner will give Contractor a written notice of suspension for cause, setting forth the reason for the suspension and identifying the Work suspended. Upon receipt of such notice, Contractor shall immediately stop the Work so identified. As soon as practicable following the issuance of such a notice, Owner will initiate and complete a further investigation of the circumstances giving rise to

the suspension, and issue a written determination of the findings.

14.1.2 If it is confirmed that the cause was within the control of Contractor, Contractor will not be entitled to an extension of time or any compensation for delay resulting from the suspension. If the cause is determined not to have been within the control of Contractor, and the suspension has prevented Contractor from completing the Work within the Contract Time, the suspension is an excusable delay and a time extension will be granted through a Change Order.

14.1.3 Suspension of Work under this provision will be no longer than is reasonably necessary to remedy the conditions giving rise to the suspension.

14.2 Suspension of Work for Owner's Convenience. Upon seven (7) days written notice to Contractor, Owner may at any time without breach of the Contract suspend all or any portion of the Work for a period of up to thirty (30) days for its own convenience. Owner will give Contractor a written notice of suspension for convenience, which sets forth the number of suspension days for which the Work, or any portion of it, and the date on which the suspension of Work will cease. When such a suspension prevents Contractor from completing the Work within the Contract Time, it is an excusable delay. A notice of suspension for convenience may be modified by Owner at any time on seven (7) days written notice to Contractor. If Owner suspends the Work for its convenience for more than sixty (60) consecutive days, Contractor may elect to terminate the Contract pursuant to the provisions of the Contract.

14.3 Termination by Owner for Cause.

14.3.1 Upon written notice to Contractor and its surety, Owner may, without prejudice to any right or remedy, terminate the Contract and take possession of the Site and of all materials, equipment, tools, construction equipment, and machinery thereon owned by Contractor under any of the following circumstances:

14.3.1.1 Persistent or repeated failure or refusal, except during complete or partial suspensions of work authorized under the Contract, to supply enough properly skilled workmen or proper materials;

14.3.1.2 Persistent disregard of laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, including ODR;

14.3.1.3 Persistent failure to prosecute the Work in accordance with the Contract, and to ensure its completion within the time, or any approved extension thereof, specified in the Contract;

14.3.1.4 Failure to remedy defective work condemned by ODR;

14.3.1.5 Failure to pay Subcontractors, laborers, and material suppliers pursuant to Tex. Gov't Code, Ch. 2251;

14.3.1.6 Persistent endangerment to the safety of labor or of the Work;

14.3.1.7 Failure to supply or maintain statutory bonds or to maintain required insurance, pursuant to the Contract;

14.3.1.8 Any material breach of the Contract; or

14.3.1.9 Contractor's insolvency, bankruptcy, or demonstrated financial inability to perform the Work.

14.3.2 Failure by Owner to exercise the right to terminate in any instance is not a waiver of the right to do so in any other instance.

14.3.3 Should Owner decide to terminate the Contract under the provisions of Section 14.3, it will provide to Contractor and its surety thirty (30) days prior written notice.

14.3.4 Should Contractor or its surety, after having received notice of termination, demonstrate to the satisfaction of Owner that Contractor or its surety are proceeding to correct such default with diligence and promptness, upon which the notice of termination was based, the notice of termination may be rescinded in writing by Owner. If so rescinded, the Work may continue without an extension of time. If Contractor or its surety fails, after written notice from Owner to commence and continue correction of such default with diligence and promptness to the satisfaction of Owner within thirty (30) days following receipt of notice, Owner may arrange for completion of the Work and deduct the cost of completion from the unpaid Contract Sum.

14.3.4.1 This amount includes the cost of additional Owner costs such as A/E services, other consultants, and contract administration.

14.3.4.2 Owner will make no further payment to Contractor or its surety unless the costs to complete the Work are less than the Contract balance, then the difference shall be paid to Contractor or its surety. If such costs exceed the unpaid balance, Contractor or its surety will pay the difference to Owner.

14.3.4.3 This obligation for payment survives the termination of the Contract.

14.3.4.4 Owner reserves the right in termination for cause to take assignment of all the Contracts between Contractor and its Subcontractors, vendors, and suppliers. ODR will promptly notify Contractor of the contracts Owner elects to assume. Upon receipt of such notice, Contractor shall promptly take all steps necessary to effect such assignment.

14.4 Conversion to Termination for Convenience. In the event that any termination of Contractor for cause under Section 14.3 is later determined to have been improper, the termination shall automatically convert to a termination for convenience under Section 14.5 and Contractor's recovery for termination shall be strictly limited to the payments

allowable under Section 14.5.

- 14.5 Termination for Convenience of Owner. Owner reserves the right, without breach, to terminate the Contract prior to, or during the performance of the Work, for any reason. Upon such an occurrence, the following shall apply:
- 14.5.1 Owner will immediately notify Contractor and A/E in writing, specifying the reason for and the effective date of the Contract termination. Such notice may also contain instructions necessary for the protection, storage or decommissioning of incomplete work or systems, and for safety.
 - 14.5.2 Upon receipt of the notice of termination, Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due at that point in the Contract:
 - 14.5.2.1 Stop all work.
 - 14.5.2.2 Place no further subcontracts or orders for materials or services.
 - 14.5.2.3 Terminate all subcontracts for convenience.
 - 14.5.2.4 Cancel all materials and equipment orders as applicable.
 - 14.5.2.5 Take action that is necessary to protect and preserve all property related to the Contract which is in the possession of Contractor.
 - 14.5.3 When the Contract is terminated for Owner's convenience, Contractor may recover from Owner payment for all Work executed. Contractor may not claim lost profits on other work or lost business opportunities.
- 14.6 Termination By Contractor. If the Work is stopped for a period of ninety (90) days under an order of any court or other public authority having jurisdiction, or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of Contractor or Subcontractor or their agents or employees or any other persons performing any of the Work under a contract with Contractor, then Contractor may, upon thirty (30) additional days written notice to ODR, terminate the Contract and recover from Owner payment for all Work executed, but not lost profits on other work or lost business opportunities. If the cause of the Work stoppage is removed prior to the end of the thirty (30) day notice period, Contractor may not terminate the Contract.
- 14.7 Settlement on Termination. When the Contract is terminated for any reason, at any time prior to one hundred eighty (180) days after the effective date of termination, Contractor shall submit a final termination settlement proposal to Owner based upon recoverable costs as provided under the Contract. If Contractor fails to submit the proposal within the time allowed, Owner may determine the amount due to Contractor because of the termination and pay the determined amount to Contractor.

Article 15. Dispute Resolution

- 15.1 Unresolved Contractor Disputes. The dispute resolution process provided for in Tex. Gov't Code, Ch. 2260 or Tex. Civ. Prac. & Rem. Code, Ch. 114, shall be used by Contractor to attempt to resolve any claim for breach of Contract made by Contractor that is not resolved under procedures described throughout the Uniform General Conditions, Supplementary Conditions, or Special Conditions of the Contract.
- 15.2 Alternative Dispute Resolution Process. Owner may establish a dispute resolution process to be utilized in advance of that outlined in Tex. Gov't Code, Ch. 2260 or Tex. Civ. Prac. & Rem. Code, Ch. 114.
- 15.3 Nothing herein shall hinder, prevent, or be construed as a waiver of Owner's right to seek redress on any disputed matter in a court of competent jurisdiction.
- 15.4 Nothing herein shall waive or be construed as a waiver of the State's sovereign immunity.

Article 16. Miscellaneous

- 16.1 Supplementary General and Special Conditions. When the Work contemplated by Owner is of such a character that the foregoing Uniform General Conditions of the Contract cannot adequately cover necessary and additional contractual relationships, the Contract may include Supplementary General and Special Conditions as described below:
 - 16.1.1 Supplementary General Conditions may describe the standard procedures and requirements of contract administration followed by a contracting agency of the State. Supplementary General Conditions may expand upon matters covered by the Uniform General Conditions, where necessary, provided the expansion does not weaken the character or intent of the Uniform General Conditions. Supplementary General Conditions are of such a character that it is to be anticipated that a contracting agency of the State will normally use the same, or similar, conditions to supplement each of its several projects.
 - 16.1.2 Special Conditions shall relate to a particular Project and be unique to that Project but shall not weaken the character or intent of the Uniform General Conditions.
- 16.2 Federally Funded Projects. On Federally funded projects, Owner may waive, suspend or modify any Article in these Uniform General Conditions which conflicts with any Federal statute, rule, regulation or procedure, where such waiver, suspension or modification is essential to receipt by Owner of such Federal funds for the Project. In the case of any Project wholly financed by Federal funds, any standards required by the enabling Federal statute, or any Federal rules, regulations or procedures adopted pursuant thereto, shall be controlling.
- 16.3 Internet-based Project Management Systems. At its option, Owner may administer its design and construction management through an Internet-based management system. In such cases, Contractor shall conduct communication through this media and perform

all Project related functions utilizing this database system. This includes correspondence, submittals, Requests for Information, vouchers or payment requests and processing, amendment, Change Orders and other administrative activities.

16.3.1 Accessibility and Administration.

16.3.1.1 When used, Owner will make the software accessible via the Internet to all Project team members.

16.3.1.2 Owner shall administer the software.

16.3.2 Training. When used, Owner shall provide training to the Project team members.

16.4 Administrative Inspections and Audits. Contractor agrees that all relevant records related to this Contract or any work product under this Contract, including practices of its Subcontractors, shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of Contractor where such records may be found, with or without notice by the Texas State Auditor's Office ("SAO"), the contracting agency or its contracted examiners, or the Office of the Texas Attorney General, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives. All Subcontracts shall reflect the requirements of this section. In addition, pursuant to Tex. Gov't Code§ 2262.003 the SAO may conduct an audit or investigation of any entity receiving funds under this Contract, including direct payments to Contractor and indirect payments under a Subcontract to this Contract; acceptance of such monies acts as acceptance of SAO authority, under legislative audit committee direction, to audit and investigate related to those funds and the entity subject to the audit or investigation must provide SAO with access to any information SAO considers relevant to the scope of the audit or investigation.

16.4.1 Records for all contracts, specifically including but not limited to lump sum contracts (i.e. fixed price or stipulated sum contracts), unit price, cost plus or time & material contracts with or without a guaranteed maximum (or not-to-exceed amounts) shall upon reasonable notice be open to inspection and subject to audit, scanning, and/or reproduction during normal business working hours. Such audits may be performed by any Owner's representative or any outside representative engaged by Owner for the purpose of examining such records. The Owner or its designee may conduct such audits or inspections throughout the term of this contract and for a period of three years after final payment or longer if required by law. Owner's representatives may (without limitation) conduct verifications such as counting employees at the Construction Site, witnessing the distribution of payroll, verifying information and amounts through interviews and written confirmations with Contractor employees, field and agency labor, subcontractors, and vendors.

16.4.2 Contractor's "records" as referred to in this Article 16.4 shall include any and all information, materials and data of every kind and character, including without

limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, e-mails, superintendent reports, drawings, receipts, vouchers and memoranda, and any and all other agreements, sources of information and matters that may in Owner's judgment have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any Contract Document. Such records shall include written policies and procedures; time sheets; payroll registers; payroll records; cancelled payroll checks; subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, negotiation notes, etc.); original bid estimates; estimating work sheets; correspondence; change order files (including documentation covering negotiated settlements); back charge logs and supporting documentation; invoices and related payment documentation; general ledger, information detailing cash and trade discounts earned, insurance rebates and dividends; and any other contractor records which may have a bearing on matters of interest to Owner in connection with the contractor's dealings with Owner (all foregoing hereinafter referred to as "records") to the extent necessary to adequately permit evaluation and verification of any or all of the following:

- Compliance with contract requirements for deliverables.
- Compliance with approved plans and specifications.
- Compliance with Owner's business ethics expectations.
- Compliance with contract provisions regarding the pricing of change orders.
- Accuracy of Contractor representations regarding the pricing of invoices.
- Accuracy of Contractor representations related to claims submitted by Contractor or any of its payees.

16.4.3 Contractor shall require all payees receiving \$10,000 or more in connection with this contract (examples of payees include subcontractors, material suppliers, insurance carriers, etc.) to comply with the provisions of this article by including the requirements hereof in a written contract agreement between Contractor and payee. Contractor will ensure that all payees (including those entering into lump sum contracts) have the same right to audit provisions contained in this contract.

16.4.4 Owner's authorized representative(s) shall have reasonable access to Contractor's facilities, shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this contract and shall be provided adequate and appropriate work space, to conduct audits in compliance with this article.

16.4.5 If an audit inspection or examination in accordance with this article, discloses overpricing or overcharges to Owner (of any nature) by Contractor and/or Contractor's Subcontractors more than \$100,000 in addition to making adjustments for the overcharges, the reasonable actual cost of Owner's audit shall be reimbursed to Owner by Contractor. Any adjustments and/or payments which must be made as a result of any such audit or inspection of Contractor's invoices and/or records shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of Owner's findings to Contractor.

16.4.6 In addition, to the normal paperwork documentation Contractor typically furnishes to Owner, in order to facilitate efficient use of Owner resources when reviewing and/or auditing Contractor's billings and related reimbursable cost records, Contractor agrees to furnish (upon request) the following types of information in the specified computer (PC) readable file format(s):

Type of Record	PC Readable File Format
Monthly Job Cost Detail	.pdf and Excel
Detailed Job Cost History to Date	.pdf and Excel
Monthly Labor Distribution Detail (if not already separately detailed in Job Cost Detail)	.pdf and Excel
Total Job to Date Labor Distribution Detail (if not already included in the detailed Job Cost History to Date)	.pdf and Excel
Employee Timesheets documenting time worked by all individuals who charge reimbursable time to the project	.pdf
Daily Foreman Reports listing names and hours and tasks of personnel who worked on the project	.pdf
Daily Superintendent Reports	.pdf
Details Subcontract States Reports (showing original subcontract value, approved subcontract change orders, subcontractor invoices, payment to subcontractors, etc.)	.pdf and Excel
Copies of executed subcontracts with all subcontractors	.pdf
Copies of all executed change orders issued to subcontractors	.pdf
Copies of all documentation supporting all reimbursable job costs (subcontractor payment applications, vendor invoices, internal cost charges, etc.)	.pdf

End of Uniform General Conditions

EXHIBIT H PREVAILING WAGE RATES

Stephen F. Austin State University
MINIMUM WAGE RATE DETERMINATION

Stephen F. Austin State University (SFA) is the contracting agency for this construction project. The following statute requires the contracting agency to specify the general minimum rates of wages in contracts that are bid.

Government Code 2258 "Construction of Public Works in State and
Municipal or Political Subdivisions; Prevailing Wage Rates to be
maintained"; and

The Uniform General and Supplementary General Conditions for Stephen
F. Austin State University Construction Contracts.

Pursuant to the requirements of this statute, SFA has determined that the attached rates of wages are paid to various classifications of workers in Nacogdoches County. Total hourly compensations to each worker must equal or exceed the minimum wage rates stated in the "2015 SFA Prevailing Wage" attachment, Total Column. Contributions by worker toward health, pension, vacation, and the like are part of the worker's pay; contributions by the employer are not. Any dollar amounts shown in the column titled "Fringe" may be paid either in cash or in kind. Workers in classifications where rates are not identified shall be paid not less than the minimum rate of "General Laborer".

All hours of work over 40 hours per week are overtime and will be compensated at the rate of 1 and ½ times the regular wage.

A contractor who violates these prevailing wage rules shall be required to pay to SFA \$60 for each worker employed for each calendar day or part of the day that worker is paid less than the wage rates stipulated by the contract.

Wage Rate Determination Appeal procedures can be found on the SFA website,
<http://www.sfasu.edu/purchasing/721.asp>.



STEPHEN F. AUSTIN STATE UNIVERSITY

Physical Plant Department

P.O. Box 13031, SFA Station • Nacogdoches, Texas 75962-3031
Phone (936) 468-3906 • Fax (936) 468-4446

Worker Wage Rate Form

This form shall be used by all construction managers, contractors, sub-contractors engaged in the execution of SFA construction contracts in accordance with the Prevailing Minimum Wage Rate guidelines and the Uniform General and Supplementary Conditions. This completed notice must be delivered to the Physical Plant and accepted by all workers involved in the project prior to substantial completion or with pay applications. The employer shall submit separate Worker Wage Rate Forms for workers engaged in multiple classifications.

Physical Plant Project No. _____ Project Name _____

SECTION 1

Print entire form.

Employee Name: _____

Employer Name: _____

Worker Classification is shown on Prevailing Wage Rate Schedule: Yes ☐ No ☐

Worker Classification: _____
(Refer to Minimum Prevailing Wage Rate schedule contained within the Agreement for the project.)

Hourly Rate

SFA Minimum Prevailing Wage Rate: \$ _____

Actual Wage Rate: \$ _____

Actual Employer Fringe Benefit Rate: \$ _____

(Contributions by a worker toward health, pension, vacation and the like are a part of the Actual Wage Rate contributions by the Employer shown below.)

As the Employee Named Above, I hereby acknowledge receipt of this notice and by my signature below indicate my agreement with both the Classification of work I have been assigned on this project and to the proposed wages to be paid to me for such work.

Employee Signature: _____ Date: ____/____/____

SECTION 2

To the "Actual Wage Rate" above, the Employer shall indicate the total of all labor burden costs, Federal and State Unemployment, Social Security, Medicare, Health Insurance and Retirement.

(Burden does not include per diem, travel expense, small tools or other items. For clarification of items not listed contact Physical Plant Department, Construction Services.)

Hourly Burden Cost

\$ _____

Total Hourly Rate

Total Hourly Rate for Contract: Actual Wage Rate + Hourly Burden Cost \$ _____

Employer Signature or Seal: _____ Date: ____/____/____

January 14, 2016 – Revised 0

2015 SFA Prevailing Wage Rate

Craft /Classification	Base	Fringe	Total
Glass Glazier	\$12.00	\$0.00	\$12.00
Glass Common Laborer/Helper	\$8.00	\$0.00	\$8.00
HVAC Journeyman Technician	\$16.75	\$0.00	\$16.75
HVAC Common laborer/Helper	\$9.00	\$0.00	\$9.00
Fencing Journeyman Installer	\$14.00	\$0.00	\$14.00
Fencing Common Laborer/Helper	\$9.00	\$0.00	\$9.00
Exavating/Dirtwork Backhoe Operator	\$13.00	\$0.50	\$13.50
Exavating/Dirtwork Bulldozer Operator	\$14.00	\$0.00	\$14.00
Exavating/Dirtwork Front End Loader Operator	\$12.00	\$0.00	\$12.00
Exavating/Dirtwork Trackhoe Operator	\$14.00	\$0.00	\$14.00
Exavating/Dirtwork Truck Driver	\$13.00	\$0.00	\$13.00
Exavating/Dirtwork Common Laborer/Helper	\$11.00	\$0.00	\$11.00
Asbestos Abatement Common Laborer/Helper	\$10.00	\$0.00	\$10.00
Concrete Finisher	\$12.50	\$0.00	\$12.50
Concrete Common Laborer/Helper	\$10.00	\$0.00	\$10.00
Roofing Journeyman	\$16.00	\$0.00	\$16.00
Roofing Common Laborer/Helper	\$13.00	\$0.00	\$13.00
Insulation Insulator	\$12.00	\$0.00	\$12.00
Insulation Common Laborer/Helper	\$10.00	\$0.00	\$10.00
Drywall/ Metal Stud Installer	\$14.00	\$0.00	\$14.00
Drywall Common Laborer/Helper	\$10.00	\$0.00	\$10.00
Landscaping Journeyman	\$12.00	\$0.00	\$12.00
Landscaping Foreman	\$16.00	\$2.51	\$18.51
Landscaping Service Technician	\$17.00	\$2.67	\$19.67
Landscaping Common Laborer/Helper	\$10.00	\$0.00	\$10.00
Millwork Cabinet Maker	\$16.00	\$2.03	\$18.03
Millwork Apprentice Carpenter	\$15.00	\$0.00	\$15.00
Millwork Journeyman Carpenter	\$16.00	\$0.00	\$16.00
Millwork Common Laborer/Helper	\$9.00	\$0.00	\$9.00
Site Utilites Foreman	\$18.00	\$0.00	\$18.00
Site Utilities Equipment Operator	\$12.00	\$0.00	\$12.00
Site Utilities Truck Driver	\$11.25	\$0.00	\$11.25
Site Utilities Journeyman	\$11.00	\$0.00	\$11.00
Site Utilities Common Laborer/Helper	\$8.50	\$0.00	\$8.50
Electrical Journeyman Electrician	\$21.00	\$0.00	\$21.00
Electrical Common Laborer/Helper	\$12.00	\$1.17	\$13.17
Plumbing Journeyman	\$20.00	\$0.00	\$20.00
Plumbing Apprentice	\$12.50	\$2.50	\$15.00
Plumbing Common Laborer/Helper	\$8.00	\$2.00	\$10.00
Acoustical Ceiling Journeyman Installer	\$13.00	\$0.00	\$13.00
Acoustical Ceiling Common Laborer/Helper	\$9.00	\$0.00	\$9.00
Painting Journeyman Painter	\$10.50	\$1.37	\$11.87
Lead Painter	\$13.00	\$0.00	\$13.00

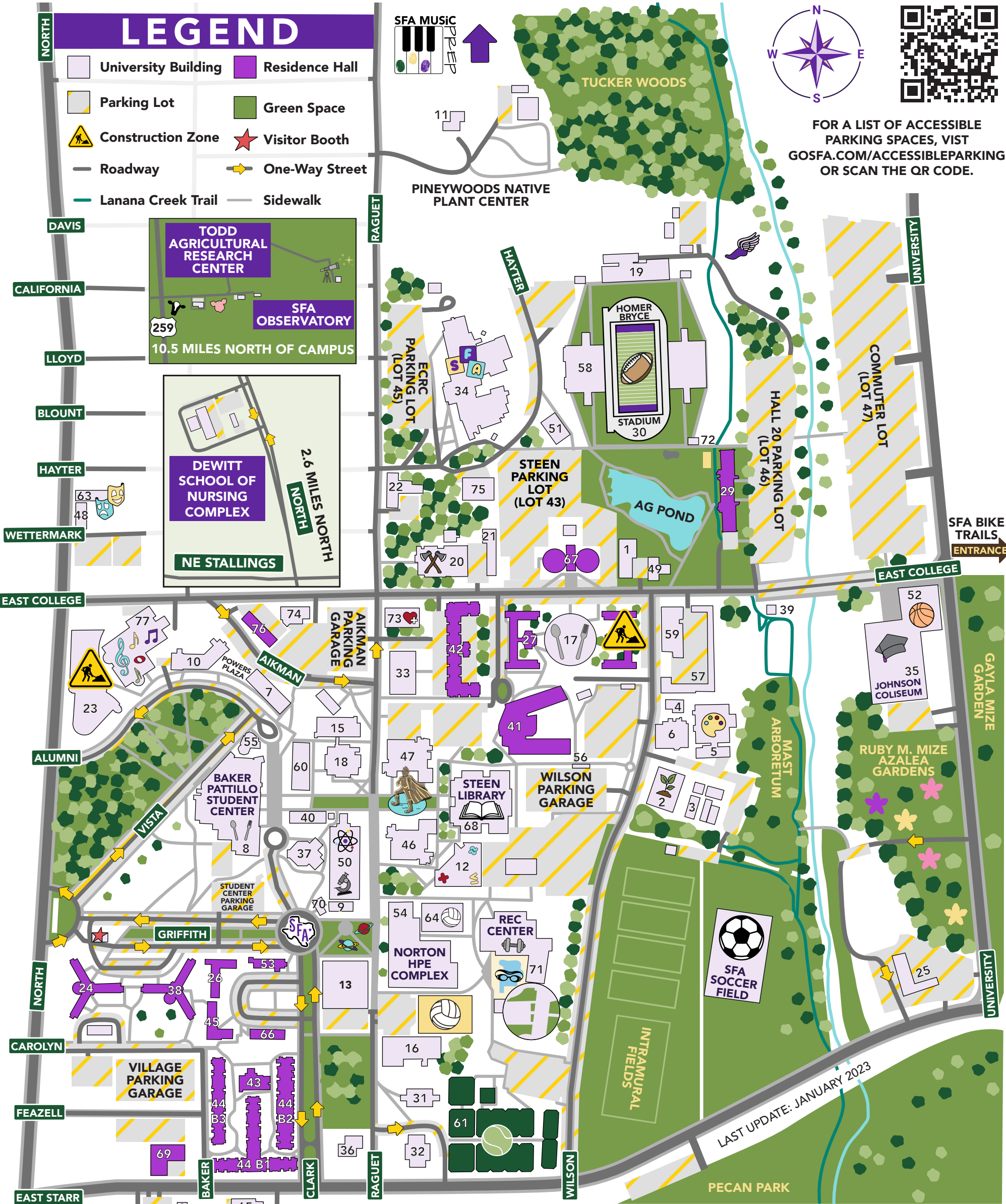
2015 SFA Prevailing Wage Rate

Craft /Classification	Base	Fringe	Total
Painting Common Laborer/Helper	\$9.00	\$0.00	\$9.00
Steel Erection Journeyman/Iron Worker	\$18.00	\$0.00	\$18.00
Steel Erection Truck Driver	\$18.50	\$0.00	\$18.50
Steel Erection Ironworker - Structural	\$20.00	\$0.00	\$20.00
Steel Erection Welder	\$15.00	\$0.00	\$15.00
Steel Erection Common Laborer/Helper	\$10.00	\$0.00	\$10.00
Flooring Journeyman Installer	\$13.88	\$2.19	\$16.07
Floor Tile Setter	\$20.00	\$0.00	\$20.00
Floor Layer	\$18.00	\$0.00	\$18.00
Flooring Common Laborer/Helper	\$9.00	\$0.00	\$9.00
Mason	\$18.00	\$0.00	\$18.00
Masonry Common Laborer/Helper	\$8.50	\$0.00	\$8.50
Mason Tender	\$9.50	\$0.00	\$9.50
Asphalt/Paving Journeyman	\$25.00	\$0.00	\$25.00
Asphalt/Paving Equipment Operator (Asphalt Pav	\$15.00	\$0.00	\$15.00
Asphalt/Paving Common Laborer/Helper	\$15.00	\$0.00	\$15.00
Asphalt/Paving Truck Driver	\$15.00	\$0.00	\$15.00
Plastering/EIFS Laborer (Tender)	\$11.00	\$0.00	\$11.00
Plastering/EIFS Journeyman	\$16.00	\$0.00	\$16.00
Plasterer	\$20.00	\$0.00	\$20.00
Fire Alarm Systems Low Voltage System Technicia	\$20.10	\$3.29	\$23.39
Fire Alarm Systems Low Voltage System Helper (L	\$12.00	\$2.60	\$14.60
Elevator Mechanic	\$37.33	\$0.00	\$37.33
Elevator Helper	\$18.67	\$0.00	\$18.67
Elevator Foreman	\$42.00	\$0.00	\$42.00
Technology/Network Installer	\$12.00	\$3.00	\$15.00
General Laborer	\$9.00	\$0.00	\$9.00

EXHIBIT I

CAMPUS MAP

STEPHEN F. AUSTIN STATE UNIVERSITY



1. Agricultural Mechanics

2. Agriculture Building

3. Agriculture Greenhouse

4. Art Studio Annex

5. Art Building

6. Art Studio

7. Austin Building

8. Baker Pattillo Student Center

9. Biology Greenhouse

10. Boynton Building

11. Brundrett Conservation Education Building

12. Bush Mathematical Sciences Building

13. Cole STEM Building

14. Culinary Café

15. Dugas Liberal Arts North

16. Education Annex

17. Eatery on East

18. Ferguson Building
19. Field House

20. Forestry Building

21. Forestry Greenhouse

22. Forestry Laboratories

23. Griffith Fine Arts Building

24. Griffith Hall

25. Grounds and Transportation

26. Hall 10

27. Hall 14

29. Hall 20

30. Homer Bryce Stadium

31. Human Sciences Building North

32. Human Sciences Building South

33. Human Services Building

34. Janice A. Pattillo Early Childhood Research Center

35. Johnson Coliseum

36. Juanita Curry Boynton House

37. Kennedy Auditorium

38. Kerr Hall

39. Kingham Children's Garden
40. Lehmann Chemistry Building

41. Lumberjack Landing

42. Lumberjack Lodge

43. Lumberjack Village Community Building

44. Lumberjack Village (Building 1, 2 and 3)

45. Mays Hall

46. McGee Business Building

47. McKibben Education Building

48. McKinney Fine Arts Annex

49. Military Science Building

50. Miller Science Building

51. Murphy Wellness Center

52. Naymola Basketball Performance Center

53. North Hall

54. Norton HPE Complex

55. Pearman Alumni Center

56. Parking Services

57. Physical Plant

58. Press Box

59. Purchasing and Central Stores

60. Rusk Building
61. Schlieff Tennis Complex

62. School of Art Film House

63. SFA Theatre Scene Shop

64. Shelton Gym

65. Social Work Building

66. South Hall

67. Steen Hall

68. Steen Library

69. STEM Apartments

70. Stone Fort Museum

71. Student Recreation Center

72. Ticket Booth

73. Tucker Building

74. University Police Department

75. Wildlife Habitat and Silviculture Laboratory

76. Wisely Hall

77. Wright Music Building

NAME/ADDRESS	HUB
Asian Contractor Association Website: www.acta-austin.com Phone: 512-926-5400 Fax: 512-926-5410	
Southwest Minority Supplier Development Council Website: www.smsdc.org Phone: 512-386-8766 Fax: 512-386-8988	
Dallas/Fort Worth Minority Supplier Development Council Website: http://affiliate.nmsdc.org/dfwmsdc Phone: 214-630-0747 Fax: 214-637-2241	
Houston Minority Supplier Development Council Website: www.hmsdc.org Contact: Angela Freeman Phone: 713-271-7805 Fax: 713-271-9770	
Tri-County Black Chamber of Commerce Website: http://www.tcbcc.org Phone: 832-875-3977 Fax: 713-839-7329	
Women's Business Council – Southwest Website: http://www.wbcsouthwest.org Contact: Anita Steele Phone: 817-299-0566	
Women's Business Enterprise Alliance Website: http://www.wbea-texas.org Phone: 713-681-9232	
Golden Triangle Minority Business Council Website: www.gtmbsc.com PH: 409-962-8530 FX: 409-722-5402	

Hispanic Contractors Association de San Antonio Website: www.hcadesa.org PH: 210-444-1100 FX: 210-444-1101	
US Pan Asian American Chamber of Commerce Website: www.uspaacc-sw.org PH: 682-367-1393 FX: 817-469-9485	
El Paso Hispanic Chamber of Commerce Website: www.ephcc.org PH: 915-566-4066 FX: 915-566-9714	
Regional Hispanic Contractors Association (RHCA) Website: www.tamacc.org PH: 972-786-0909 FX: 972-786-0910	
Texas Association of Mexican American Chambers of Commerce (TAMACC) Website: www.tamacc.org Contact: Pauline Anton Phone: 512-444-5727	
START SELECTED VENDORS HERE	
Mosby Mechanical PO Box 8582 Longview, Texas 75602 Contact: Brad Arnold Email: Phone: 903.757.5321	
Kilgore Industries, LP 10050 Houston Oaks Dr. Houston, TX 77064 Contact: Julio Cornavaca Email: Phone: 713.924.4900	(Side Note: On TIPS #22010701 & #22010702)
Johnson Controls ArkLaTex Longview 1095 Gum Springs, Road Longview, TX 75602 Contact: Sean Swank or Ryan Coco Email: Phone: 903.930.6972	
RLP Mechanical Contractors 4117 N. Hwy 77 Waxahachie, TX 75165 Contact: David Brumley Email: Phone: 972.617.3557	WO/F

Robertson Mechanical Contractors, LP, LLP 2936 Specialty Drive Tyler, TX 75707 Contact: Matt Maxwell Email: Phone: 903.452.6616	
NTD Mechanical 2477 Merritt Drive Garland, TX 75041 Contact: Michael Allen or Cary Reese Email: Phone: 469.323.0454	(Side note: on TIPS #220605) HUB? Website says they are but not on CMBL
Gray Mechanical 15534 West Hardy Road Suite 100 Houston, TX 77060 Contact: Email: Phone: 281.940.3899	Sent email to get info 022423
Reliance Mechanical Contractors 1001 Alumax Drive Nash, TX 75569 Contact: Kip Townsend Email: Phone: 903.223.0946	Sent email to get info 022423 (Side Note: On TIPS #200201)
TDR Contractors 1203 SH 155 North Gilmer, TX 75644 Contact: David Connor or Tiger Stovall Email: Phone: 903.797.3428	
TD Industries, Inc 2701 Gattis School Rd. Bldg. A, Ste 101 Round Rock, Texas 78664-3819 Contact: Jeff Halvordson Email: Phone: 512.662.6562	
TK Boilers, LLC 14149 Interdrive W. Houston, TX 77032-3326 Contact: Kyle Stell Email: Phone: 713.271.6877	
Sturgis Enterprises, LLC 6516 Torrey Pine Ln Cleburne, TX 76033-8902 Contact: Jason Sturgis Email: Phone: 817.443.8871	DV/M
Reliable Plant Maintenance, Inc PO Box 397 McKinney, TX 75070-8137 Contact: Margaret Futrell	WO/F

Email: Phone: 469.631.0571	
Mechanical & Process Systems, LLC 1804 Central Commerce Ct. Round Rock, TX 78664-8546 Contact: Michael Gonsalvez Email: Phone: 512.691.9259	AS/M
Letsos Company, Inc PO Box 36927 Houston, TX 77236-6927 Contact: Jim Olson Email: Phone: 713.783.3200	WO/F
JM Engineering, LLC 1314 Hillridge Dr. Round Rock, TX 78665-1186 Contact: Jay Weinberger Email: Phone: 512.614.0226	WO/F
Air Performance Service of Central Texas 13405 Immanuel Rd Bldg 2 Pflugerville, TX 78660-8337 Contact: Staci Addington Email: Phone: 512.381.0200	WO/F
Ferrara's Heating & Air Conditioning Co PO Box 154107 Lufkin, TX 75915-4107 Contact: Joseph Stotts Email: Phone: 936.639.5259	WO/F – Inactive since 02/23/2017 per CMBL