# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Notice for Request for Construction Manager-at-Risk Responses</th>
<th>2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Selection Schedule</td>
<td>3</td>
</tr>
<tr>
<td>Selection Process</td>
<td>4</td>
</tr>
<tr>
<td>Request for Qualifications</td>
<td>5</td>
</tr>
<tr>
<td>Request for Qualifications Questionnaire</td>
<td>6</td>
</tr>
<tr>
<td>Criteria for Selection</td>
<td>11</td>
</tr>
<tr>
<td>Attachment 1 - Pre-Construction Services</td>
<td>14</td>
</tr>
<tr>
<td>Attachment 2 - Construction Phase Services</td>
<td>16</td>
</tr>
<tr>
<td>Attachment 3 – Post-Construction Phase Services</td>
<td>24</td>
</tr>
<tr>
<td>Appendix A - Felony Conviction Notice</td>
<td>A-1</td>
</tr>
<tr>
<td>Appendix B - Construction Manager-At-Risk Evaluation Form</td>
<td>A-3</td>
</tr>
<tr>
<td>Appendix C - Proposal Tabulation Form (submitted under separate cover for use by companies shortlisted)</td>
<td>A-5</td>
</tr>
<tr>
<td>Appendix D – TASB Amendments to the AIA Document A133-2009, Standard Form of Agreement Between Owner and Construction Manager as the Constructor</td>
<td>A-6</td>
</tr>
<tr>
<td>Appendix F – TASB Amendments to the AIA Document A201–2007, General Conditions of the Contract for Construction</td>
<td>A-8</td>
</tr>
<tr>
<td>Appendix G – Project Schedules</td>
<td>A-9</td>
</tr>
<tr>
<td>Appendix IH – Bid Package Scopes</td>
<td>A-10</td>
</tr>
</tbody>
</table>
In anticipation of a potential bond referendum voting and passing in May 2016, Coppell Independent School District is accepting qualifications to provide construction management services until 11:00 a.m., February 9, 2016, at the office of:

Sid Grant, Assistant Superintendent for Business and Support Services
Coppell Independent School District
1303 Wrangler Circle, Suite 100
Coppell, TX 75019

to contract with one or more construction management companies for the construction of a new elementary school and middle school, major additions and renovations at Coppell Middle School West and Coppell High School, modest improvements at Coppell Middle School East and North and the Service Center, and minor improvements at various other campuses. The estimated construction value of approximately $155,000,000. Construction Management services will begin on the new middle school upon execution of a contract while all other projects will be contingent upon approval by the voters of a bond referendum.

The Request for Qualifications will be released on January 22, 2016 and will be available through electronic delivery from:

Lorenzo Navarrete
Stantec
Email Address: lorenzo.navarrete@stantec.com

The district reserves the right to reject any or all qualifications, to make choices as they may appear to be advantageous to the district and to waive all formalities in considering submitted qualifications.

By responding to this RFQ, each construction management company acknowledges that, should the bond program not be approved by the voters, services to CISD will no longer be required and the contract between CISD and the construction manager will be terminated without penalty to the district. The contractor will only receive payment for the performed Pre-Construction Services as identified in the contractor’s fee proposal.
2016 BOND PROGRAM
Selection Schedule

- Request for Qualifications Release       01-22-16
- First Advertisement                     01-28-16
- Second Advertisement                    02-04-16
- Deadline to Receive Qualifications     02-09-16, 11:00 a.m.
- Review Qualifications                   02-09-16 thru 02-11-16
- Notify companies of the results by end of day 02-11-16
- Interviews of short-listed companies/Board Approval 02-18-16 a.m.
- Make Recommendation to Board of Trustees 02-22-16
- Negotiate Owner/Construction Manager Agreements 02-23-16 thru 02-30-16
Step One: Response to the Request for Qualifications

1. The selection process for this project will be accomplished in a two-step process as provided in the Texas Public Education Statute, Chapter 44, Subchapter B.

2. The School District will receive, publicly open, and read aloud the names of the offerors submitting a Request for Qualifications response.

3. A selection committee consisting of representatives from Coppell Independent School District and the design team shall review the responses to determine which companies the selection committee believes will most likely provide the best value to the School District.

4. Submissions will be evaluated and ranked by the selection committee. The ranking will be based upon the CM-at-Risk Evaluation Form as indicated in Appendix B.

Step Two: Interview Process and Price Proposal

1. A short-list of construction management companies will be determined by the selection committee and notified to interview.

2. The final selection of the construction management company for this project will be based on a combined evaluation of qualifications, the information provided in the interview, and the anticipated cost of services to determine the best value to the School District. The School District reserves the right to waive any informality and to reject or accept any or all responses.

3. CISD reserves the right to terminate its agreement with the chosen contractor for any reason without penalty and begin negotiations with the other short-listed companies in order of their ranking upon completion of the interviews.
2016 BOND PROGRAM
Request for Qualifications

Pursuant to the provisions of the Texas Education Code Section 44.031, it is the intention of Coppell Independent School District to select via a Request for Qualifications process a construction manager using the Construction Manager-at-Risk delivery method for the construction of the 2016 Bond Program for Coppell Independent School District in the city of Coppell, Texas. The selected construction manager is to assist the School District and its architect (Stantec) with cost estimating, value engineering, constructability reviews, scheduling, and to build the project thereafter as a Construction Manager-at-Risk.

Qualifications are to include the information requested in the Questionnaire below in the sequence and format prescribed. In addition to and separate from the requested information, organizations submitting may provide supplementary materials further describing their capabilities and experience.

Qualifications (three bound copies AND one electronic copy stored on a flash drive) are to be submitted to and received by:

Sid Grant, Assistant Superintendent for Business and Support Services
Coppell Independent School District
1303 Wrangler Circle, Suite 100
Coppell, Texas 75019

prior to 11:00 a.m. on February 9, 2016. Thereafter, the School District and its architect will review the responses. After the responses are reviewed, a short list of firms will be selected to interview and provide a proposal for services. Selected firms will be notified via email by end of business day on February 11, 2016. Interviews will be scheduled on February 18, 2016 between 8:00 a.m. and noon at 1303 Wrangler Circle, Coppell, TX (located behind Coppell Middle School West). The selection process will follow the stipulations of the Texas Education Code Section 44.031, the relevant sections of which have been summarized beginning on page 12.

Queries about the Project and Request for Qualifications should be addressed via email to:

Lorenzo Navarrete
Stantec
Email Address: lorenzo.navarrete@stantec.com
Subject Line: “Coppell ISD CM@Risk Process”
1. **Firm Information:**
   Name of organization:
   Address of principal office:
   Phone, Fax:
   Form of Business Organization (Corporation, Partnership, Individual, Joint Venture, Other?):
   Year founded:
   Primary individual to contact:
   Primary individual contact information:

2. **Organization:**
   2.1 How many years has your organization been in business in construction in its current capacity?
   2.2 How many years has your organization been in business under its present name?
      Under what other or former names has your organization operated?
   2.3 If your organization is a corporation, answer the following: Date of incorporation, State of incorporation, President’s name, Vice-President’s name(s), Secretary’s name, Treasurer’s name.
   2.4 If you organization is a partnership, answer the following: Date of organization, type of partnership (if applicable), names of general partner(s).
   2.5 If your organization is individually owned, answer the following: Date of organization, name of owner.
   2.6 If the form of your organization is other than those listed above, describe it and name the principals.

3. **Licensing:**
   3.1 List jurisdictions and trade categories in which your organization is legally qualified to do business and indicated registration or license numbers, if applicable.
   3.2 List jurisdictions in which your organization’s partnership or trade name is filed.
4. **Experience:**

4.1 List the categories of work that your organization normally performs with its own forces. Would you propose to do any work with your own forces or to bid all work to subcontractors?

4.2 List any subcontractors in which your organization has some ownership and list the categories of work those subcontractors normally perform.

4.3 Claims and suits. (If the answer to any of the questions below is yes, please attach details.)

   4.3.1 Has your organization ever failed to complete any work awarded to it?

   4.3.2 Are there any judgements, claims, arbitration proceedings or suits pending or outstanding against your organization or its officers?

   4.3.3 Has your organization filed any lawsuits or requested arbitration with regard to construction contracts within the last five years?

4.4 Within the last five years, has any officer or principal of your organization ever been an officer or principal of another organization when it failed to complete a construction contract? (If the answer is yes, please attach details.)

4.5 Current work:

List the major construction projects (particularly educational facilities) your organization has in progress, giving the name and location of project, owner, architect, contract amount, percent complete and scheduled completion date.

4.6 Work over last 5 years:

List the major projects (particularly educational facilities) constructed by members of your organization over the last 5 years. For each project, provide the name, nature of the project/function of the building, size (SF), location, cost, completion date, owner and architect, and the manner in which your organization was selected (bid or RFP or other method).

4.6 List/describe your experience, if any, with Coppell Independent School District.

5. **Financial Information:**

5.1 Attach a financial statement, preferably audited, including your organization’s latest balance sheet and income statement showing the following items:

   - Current assets (e.g., cash, joint venture accounts, accounts receivable, notes receivable, accrued income, deposits, materials inventory, and prepaid expenses.)

   - Noncurrent assets (e.g., net fixed assets, other assets.)

   - Current liabilities (e.g., accounts payable, notes payable, accrued expenses, provision for income taxes, advances, accrued salaries and accrued payroll taxes.)

   - Noncurrent liabilities (e.g., notes payable.)

   - Capital accounts and retained earnings (e.g., capital, capital stock, authorized and outstanding shares per value, earned surplus and retained earnings.)
5.2 Name and address of firm preparing attached financial statement and date thereof.

5.3 Is the attached financial statement for the identical organization names under item 1 above? If not, explain the relationship and financial responsibility of the organization whose financial statement is provided (e.g., parent, subsidiary.)

5.4 Will the organization whose financial statement is attached act as guarantor of the contract for construction?

5.5 Provide name, address, phone for bank reference.

5.6 Surety: Name of bonding company, name and address of agent. A bond to 100% of the construction cost will be required upon submission of the GMP. Proof of ability of bond will be required prior to selection.

6. **Experience with/Concepts for working as a Construction Manager-at-Risk:**

6.1 Describe your organization’s concepts for working in a team relationship with the owner and architect during the design and construction of major projects. Describe your organization’s methods for estimating costs, and for scheduling during the design/documents phases. Which (one or more) of your projects listed above best exemplify these concepts and experience?

6.2 **Cost Estimate:**

Attach a sample conceptual cost estimate prepared during the design phase of a project, and a sample of the final cost estimate/breakdown used to fix the contract amount for the construction of the same project. (The identity of the project may be concealed. The intent is to see the nature and format of the cost information provided.)

6.3 **Fees:**

It is anticipated that the School District will enter into a fixed sum contract with the construction manager. The proposed fee quote will not be required with the written response; however, fees will be discussed in the final selection process. This sum will include overhead, profit, supervision, pre-construction services, and all other costs except those associated with direct labor (if any) on the project. Describe the method of payment your firm would desire, including when various fees would be due.

6.4 **Savings:**

Describe your organization’s concept for the disposition of savings realized during construction. Is the full amount or a percentage thereof returned to the owner?

6.5 **Contingencies:**

Respond to each of the following items by separate paragraph:

**Pre-Construction Services**

- Describe your organization’s concept for cost contingencies during all design phases. What is the maximum amount of contingency your organization proposes for each phase?

**Construction**

- What is the maximum amount of your construction contingency your organization proposes for this phase?
• How do you propose to document changes to your contingency during construction?
• How are buy-out funds documented during the construction phase?
• Should buy-out funds be allocated to the contractors, owners or a general construction contingency fund to be used by both the contractor and the owner?
• What is your organization’s concept for the disposition of contingency funds after the completion of the project?

6.6 Cost Information:
Your firm would be required to make all cost information during design and construction available to owner and architect. Describe how this information would be furnished and how the owner and architect would be assured that it is complete and accurate.

6.7 General Conditions:
In Step Two of the process, all short-listed construction management companies will be required to include an itemized cost breakdown of all General Conditions that would ONLY be directly attributed to each proposer’s costs. Included in the General Conditions shall be bonds and insurance costs and all site costs for the job personnel as well as all reimbursable overhead items. The following items are to be included in your “Fee” percentage rather than as General Conditions:

Field office staff bonuses
Off-site staff costs
Vehicle mileage to the project site for field office staff
Safety Supervisor inspections
Personal computers/computer charges
Mobile or two-way communication devices
Vehicle rental, repair, insurance, and maintenance
Project scheduling services (except for time of field office staff)
Project accounting services (except for time of field office staff)

If there are no exceptions to this paragraph, identify by responding “No Exceptions”. Otherwise, identify any exceptions that your organization takes with this paragraph.

6.8 Bonding:
Is it your intent or a requirement of your organization or a requirement of your surety to bond or insure any subcontractors on this project? If you answer “Yes,” please list subcontractors by trade that you would propose.
7. **Personnel:**

Given the scope and schedule of the project, identify the specific Project Manager, Estimator, and Superintendent who would work on the project. Provide a resume and references for each individual.

8. **Owner/Construction Manager Agreement:**

We propose to base the Owner/Construction Manager Agreement on the following documents:

- Appendix D: AIA Document A133-2009, *Standard Form of Agreement Between Owner and Construction Manager as the Constructor*
- Appendix G: *TASB Amendments to the AIA Agreements*

9. **References:**

For 5 of the projects listed above (re: item 4.5), identify a representative of the owner and a representative of the architect (provide name, phone/fax numbers) whom we could contact as references regarding your organization’s services. Ideally, some of the references should be for educational projects of comparable scope.
Coppell Independent School District

2016 Bond Program
Criteria for Selection

Per the Texas Education Code, title 2. Public Education, Chapter 44, Fiscal Management, Sub-
chapter B, Purchases; Contracts, 44.031, Purchasing Contracts, Coppell Independent School District
shall consider the following in determining to whom to award the contract for Construction Manager
at Risk services for the 2016 Bond Program.

(1) the purchase price;
(2) the reputation of the vendor and of the vendor’s goods or services;
(3) the quality of the vendor’s goods or services;
(4) the extent to which the goods or services meet the School District’s needs;
(5) the vendor’s past relationship with the School District;
(6) the impact on the ability of the School District to comply with laws and rules relating to
historically underutilized businesses;
(7) the total long-term cost to the School District to acquire the vendor’s goods or
services;
and
(8) any other relevant factor that a private business entity would consider in selecting a
vendor.

(a) The relevant experience of the vendor.
(b) Past performance of the vendor.
(c) Vendor’s safety record.
(d) Proposed personnel for the project.
(e) Methodology for the project.
(f) Acceptance of proposed contract terms.

Extrapolated from this list, the following criteria will be considered in selecting the construction
manager. The Selection Criteria Evaluation Form used in ranking of offerors is attached in Appendix
B.

EXPERIENCE

(2) the reputation of the vendor and of the vendor’s goods or services;
(3) the quality of the vendor’s goods and services;
(4) the vendor’s past relationship with the School District;

• How substantial is the firm’s recent experience in the construction of projects of comparable
size and complexity?
• How substantial is the firm’s experience in providing construction services for educational
facilities of comparable size, complexity?
• Is the firm knowledgeable about, experienced in the Dallas/Ft. Worth, Texas construction
market?
• How substantial is the firm’s recent experience in providing pre-construction services for
projects of comparable size and complexity?
• Has the firm worked for the School District in the past? If so, was that work satisfactory to the
School District?
SCHOOL DISTRICT’S NEEDS
(5) the extent to which the goods or services meet the School District’s needs;

• Does the description provided by the firm of its pre-construction services evidence both understanding and capabilities of the process in general and as it apply to this specific project for the Coppell Independent School District 2016 Bond Program.
• Does the construction manager appear to have the capability to meet the School District’s schedule objectives?

COST ISSUES
(1) the purchase price;
(6) the total long-term cost to the School District to acquire the vendor’s goods or services;

• Is the format/nature of cost estimates prepared by the firm during the design phases informative/useful for the School District/Architect? Are the initial and final estimates consistent in nature and format?
• If savings are realized during construction, what percentage of those savings is returned to the School District? 100? Less?
• What is the firm’s concept for the disposition of any unused contingency included in the project cost? 100% to the School District? Less?

ORGANIZATION, LICENSING, FINANCIAL INFORMATION, PERSONNEL, REFERENCES, SAMPLE CONTRACT
(7) any other relevant factor that a private business entity would consider in selecting a vendor.

• How long has the firm been in business providing the type of services sought by the School District?
• Does the firm’s organizational structure, licensing and financial information indicate that the firm is capable of undertaking the Coppell Independent School District 2016 Bond Program?
• Do the personnel proposed for the project appear to have the appropriate experience, capabilities?
• Are the responses to the AIA Document “A133-2009, Standard Form of Agreement Between Owner and Construction Manager as the Constructor”, AIA Document “A201–2007, General Conditions of the Contract for Construction”, and the TASB Amendments to the AIA Documents as indicated in Appendix D, E, and F acceptable?

44.34 NOTIFICATION OF CRIMINAL HISTORY OF CONTRACTOR
(a) A person or business entity that enters into a contract with a School District must give advance notice to the School District if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony.

(b) A School District may terminate a contract with a person or business entity if the School District determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The School District
must compensate the person or business entity for services performed before the termination of the contract.

(c) This section does not apply to a publicly held corporation.

ATTACHMENT 1

PRE-CONSTRUCTION SERVICES (Minimum Required)

- Establish project **GOALS AND PRIORITIES**
- Prepare an **OPERATING SYSTEM**
  - Establish procedures for decision making, review, etc.
  - Outline responsibilities of the Owner, the architect, construction manager, contractors and third parties.

- Develop an **OVERALL MANAGEMENT PLAN AND CPM MANAGEMENT** of critical design and construction dates in order to accomplish the state objective.

- **DESIGN COST PLANNING**
  - Prepare computerized estimated system.
  - Develop, implement, and monitor cost model for continuous budget control.
  - Provide design change order control system for elected modifications.

- **SCHEMATIC DESIGN**
  - Prepare conceptual estimate.
  - Hold technical review sessions with Owner and Architect at 50% and 100% completion of the Schematic Design phase. Analyze the potential for use of systems components.
  - Consult with the Owner and Architect on means and methods of construction.
  - Review schematic design documents.
  - Submit to the Owner and the Architect special inputs relative to time and cost control.
  - Prepare “trade-off” studies relative to value engineering.
  - Revise a critical data schedule.
  - Prepare a professional construction CPM network for the issuance of bid packages.

- **DESIGN DEVELOPMENT**
  - Prepare a detailed estimate based on available design drawings in a CSI or subcontractor bid format.
  - Review the design development documents with the Owner and the Architect at 50% and 100% completion of the Design Development phase.
  - Revise and update the critical data schedule.
ATTACHMENT 1

PRE-CONSTRUCTION SERVICES
Page Two

- Develop and arrange pre-bid packages.
- Prepare a site use study to be used for allocation of space for storage.
- Parking and temporary facilities.
- Cash flow analysis for both the design and construction phases.

• CONSTRUCTION DOCUMENTS

- Prepare and update estimates in the CSI format at the 50% and 75% working drawings stage.
- Review the drawings and specifications relative to bid packages.
- Develop bid package requirements.
- Schedule and conduct pre-bid conferences.
- Review and analyze bids.
- Update project budget and schedule consistent with actual bids.
- Develop a detailed CPM network schedule.
- Provide a Guaranteed Maximum Price for the project.
ATTACHMENT 2

CONSTRUCTION PHASE SERVICES (Minimum Required)

- Manage the GMP DOCUMENTATION, including:
  - Detailed quantity surveys, pricing.
  - Procurement strategy and implementation.

- Prepare SUBCONTRACTOR PROPOSAL PACKAGES (required of ALL proposers without exception), including:
  - Project Manual, outlining the requirements of the construction.
  - Schedule (by proposal package interface).
  - Detailed scope of work.
  - Detailed document listing.
  - Proposal forms for each proposal package.
  - Form of contract and purchase order forms.
  - Insurance requirements.
  - Bonding requirements.
  - Prequalification of bidders/proposers.
  - Other special requirements.

- Establish the BUDGET BY PROPOSAL PACKAGE (required of ALL proposers without exception)

- Prepare a detailed SCHEDULE derived from detailed quantities for each proposal package to satisfy milestones.

- SITE UTILIZATION STUDY
  - Coordinate mobilization and plan logistical requirements.
  - Project office and material staging locations.
  - Ingress, egress.
  - Security requirements of owner.

- CONDUCT PRE-PROPOSAL MEETINGS (required of ALL proposers without exception) for each proposal package, addressing:
  - Project requirements.
  - Document review for specific questions.
  - Sequence/schedule review.
  - Site restrictions.
  - Other questions raised during discussions.

- RECEIVE PROPOSALS:
  - Generate interest in vendors/contractors.
  - Advertise or solicit for proposals/responses.
- Conduct proposal openings.
- Receive proposals on all portions of the work, with the exception of work specifically approved by the Owner in advance when appropriate to schedule or logistics.
- Prepare tabulations using a bid tabulation form prepared by the CM for each proposal package. Include proposal package budgets in the bid tabulation form (required of ALL proposers without exception).
- Review responses for compliance with contract documents.
- Review apparent low vendor’s qualifications, past experience and liquidity.

**CONDUCT PROPER AWARD OF CONTRACTS/PURCHASE ORDERS:**

- Conduct pre-award meetings.
- Review schedule of values.
- Review subcontractors’ general conditions.
- Review scope of work.
- Identify shop drawing requirements.
- Perform document review and specifications review.
- Review contractors’ personnel:
  - Project Managers
  - Superintendents
  - Foremen
- Establish quality requirements and standards.
- Review sequence and Schedule.
- Identify accounting requirements.
- Review insurance requirements.
- Review safety and security requirements.
- Recommend award of contracts in written form for review and approval to the Owner/Architect indicating both the amount of the subcontract and any additional scope added by the Construction Manager.

**PREPARE AND ISSUE AS CONSTRUCTION MANAGER (required of ALL proposers without exception):**

- Executed Subcontractor Agreements along with a copy of the subcontractor’s proposal.
- Rental agreements.
- Budget adjustments for all transactions.
- Computerized accounting for tracking and projections.
- Proposals from the CM for all work or general conditions provided by the CM.
- Proof of receipt of at least three proposals for all work relating to General Conditions.
• PROVIDE COORDINATION AND MANAGEMENT OF SUBCONTRACTORS
  - Establish site organization, including work and storage areas.
  - Establish jobsite management organization and jobsite procedures.
  - Maintain daily log for jobsite record.
  - Provide general conditions work to meet project requirements.
  - Prepare and issue change orders and contracts.
  - Prepare subcontractor change orders and contracts.
  - Monitor construction cost and projections.
  - Prepare and maintain cash flow projection for Owner.
  - Monitor and maintain quality control.
  - Shop drawing control
  - Equipment and material control.
  - Provide and monitor overall progress and short interval scheduling.
  - Prepare billings and progress payments.
  - Conduct subcontractor coordination meetings.
  - Provide coordination between subcontractors.
  - Prepare and receive requests for information.
  - Prepare agendas and conduct weekly safety and progress meeting.
  - Prepare and distribute weekly safety and progress meeting minutes.
  - Establish subcontractor progress payment procedure for processing and payment.
  - Monitor subcontractor pay applications.

• WEEKLY PROGRESS MEETINGS:
  - Review status of outstanding shop drawings and Requests for Information (RFIs).
  - Review and summarize past week’s construction performance.
  - Project the coming week’s construction activities.
  - Present status report on Architectural Supplemental Instruction (ASIs) along with change orders – costs, delays, and time extensions.
  - Identify problems that threaten construction quality, cost and schedule.

• MONTHLY REPORT:
  - Summarize project financial status.
  - Review and summarize past month’s construction performance.
  - Project the coming month’s construction activities.
  - Present status report on change orders – delays and time extensions.
  - Identify problems that threaten construction quality, cost and schedule.

• Provide CHANGE ORDER CONTROL:
  - Implement system for change orders.
  - Allocate change order responsibilities.
  - Review change order requests from subcontractors.
- Negotiate change orders with subcontractors.
- Submit recommendations to Owner/Architect.

• Provide **DOCUMENT MAINTENANCE CONTROL**:
  - Regularly update the “as-built” documents for review each coordination meeting.
  - Include all changes that result from RFIs, ASIs, Change Orders, contractor changes approved by the Owner and Architect.

• Provide **CONTROL FOR THE EXPENDITURE OF CONTINGENCY AND ALLOWANCE FUNDS**:
  - Implement system for contingency and allowance funds.
  - Allocate responsibilities related to contingency and allowance funds.
  - Review change requests from subcontractors that affect contingency and allowance funds.
  - Negotiate amounts with subcontractors.
  - Submit recommendations to Owner/Architect.

• Establish a **QUALITY MANAGEMENT PROGRAM**:
  - All members of the team participate in the quality control effort.
  - Project Scope Review:
    - Intended purpose.
    - Are the project needs met?
    - Existing conditions reviewed.
    - Future needs.
  - Incorporate Restrictive Conditions in documentation to include:
    - Social environment, influence of neighbors, environmental impact.
    - Natural conditions, grounds and peripherals.
    - Research on legal requirements.
    - Research on existing structures, facilities.
  - Review of Design Development for:
    - Complete construction documents in the order they are to be purchased and constructed.
    - Complete documents for pre-purchased equipment.
    - Design compatibility with future operation and maintenance.
    - Constructability.
  - Coordinate schedule and assist independent testing and inspection agencies selected by the School District, involving the following work:
    - Underground piping
    - Soils
    - Concrete
    - Rebar
ATTACHMENT 2

CONSTRUCTION PHASE SERVICES
Page Five

- Miscellaneous steel
- Structural steel
- Mechanical systems
- Electrical
- Life safety systems
- Energy management systems
- Others as required

- Work with area superintendents of subcontractors.
- Prepare operations to minimize quality control problems.
- Require formalized quality management program from subcontractors:
  - Ensure conformance to project’s quality standards previously established.
- Follow-up to assure correction of deficiencies on test reports.

• ACCOUNTING FUNCTIONS:
  - Insurance requirements
  - Schedule of values review
  - Labor cost reports
  - Material cost reports
  - Unit cost reports
  - Monthly detail cost sheet
  - Monthly job costs
  - Accounts payable
  - Monthly project billing
  - Copies of Monthly Pay Requests from all Subcontractors and proof of all payment requests related to General Conditions

• AUDITS:
The Owner will retain the right to audit any or all accounting records of this project upon demand for up to 2 years after final completion of the work or final acceptance of the work by the Owner, whichever is later. The audits may include any or all payments made to subcontractors, companies or individuals, for all work associated with this project, to the extent required for a complete accounting of all costs. The accounting method must clearly show the breakdown of the following as a minimum:

  - Unit and material cost
  - Invoices
  - Specific wage rates (unburdened actual costs) for all trades
  - Documentation of actual burden and benefit costs for all personnel chargeable to the project.
  - Premium time mark-ups for all trades, if any
  - Contractor’s fee
  - Materials mark-up
  - Subcontractors mark-ups
  - Insurance and bond costs
- Equipment and tool rental costs
- Any other documentation required

Audits may occur at regular or irregular intervals. The Construction Manager must be able to provide documentation required upon request within 24 hours during the duration of the project. Audits will use the proposal and bidding information as the basis for verification of costs at each audit. The Construction Manager is to provide certification and reconciliation of all project costs to Owner at the completion of the project.

**JOB SAFETY OBJECTIVES:**

- Conduct weekly safety meeting:
  - Implement project safety requirements.
  - Review subcontractor safety programs.
- Subcontractor conformance, initiate knowledge of OSHA requirements:
  - Subcontractor responsible for costs and damages.
  - Submission of accident and injury reports.
  - Subcontractor safety programs.
  - Require subcontractor safety representative.
  - Require forty-eight hour reports.
  - Require weekly tool box safety meeting.
- Maintain safety meeting minutes:
  - Inform subcontractors of procedures.
- Enforce alcohol and drug programs by subcontractors.
- Implement and maintain clean-up.

**JOBSITE SECURITY FUNCTIONS:**

- Monitor and control employee, vendor and public access to the jobsite.
- Monitor and control material and equipment deliveries to the jobsite.
- Monitor and control material and equipment being removed from jobsite through a material release form.
- Monitor and control site traffic.
- Monitor and perform periodic checks for alcohol and drugs.
- Monitor and control tools.
- Monitor material storage.
- Monitor trailers and all equipment within.
- Maintain proficiency first-aid and CPR programs.
- Monitor compliance with School District’s No Smoking policy.
- Monitor compliance with School District's weapon-free zones.
- Monitor and control employee, vendor access or interaction with students and staff.
- Monitor and control compliance with School District's harassment-free environment for students and staff.
- Monitor and control employee, vendor theft.
ATTACHMENT 2
CONSTRUCTION PHASE SERVICES
Page Seven

• **HUMAN RESOURCES:**

  As construction managers, provide assistance and policies on Equal Employment Opportunity, minority and women-owned business enterprises, sexual harassment or discrimination, drug abuse program, labor relations, employment transfers or reassignments and assuring proper personnel for project requirements.

• **BACKGROUND CHECK AND FELONY CONVICTION NOTIFICATION:**

  AGREEMENT BETWEEN SCHOOL DISTRICT AND CONSTRUCTION MANAGER – (Note: The requirements for Felony Conviction Notification and Drug Testing will only be required for personnel who enter the job site and construction site **AFTER** the building has achieved Substantial Completion and during the Close-out and Warranty period of the project. No one will be allowed on the project site after Substantial Completion without complying with the regulations as stated below.)

  Criminal History Background Checks and Drug Testing Construction Manager, all Subcontractors and all Sub-subcontractors shall ensure that any person assigned to perform work at any School District location under the Contract meets the following criterion:

  • No records in the Texas DPS Sex Offender Registration database.

  • No felony convictions, open deferred adjudications or pending criminal trials in jurisdictions checked for crimes involving sex, violence or any other offense against or injury to a child.

  • No felony convictions, open deferred adjudications or pending criminal trials in jurisdictions checked for the past seven (7) years, except for crimes involving sex, violence or any other offense against a child for which there is no time limit.

  • No misdemeanor convictions, open deferred adjudications or pending criminal trials in jurisdictions checked for crimes involving sex or any other offense against a child.

  • No misdemeanor convictions, open deferred adjudications or pending criminal trials in jurisdictions checked for the past seven (7) years for crimes involving violence.

  • No positive drug test results. Drug test shall consist of a five-panel screen for drugs of abuse. Substances and cut-off levels shall be consistent with Department of Transportation requirements. All positive results shall be laboratory confirmed and independently verified by a Medical Review Officer (MRO).
Construction Manager shall perform and shall require, as a condition of contracting, all Subcontractors and Sub-subcontractors to perform criminal history background checks and drug testing on any person who is assigned to perform any work at any School District location under the Contract and shall promptly produce to the Owner the School District location under the Contract and shall promptly produce to the Owner the results of such background checks and drug testing upon request. A drug test will be demanded of any person noticeably under the influence of drugs or other related substances.

Construction Manager to provide 30 “Visitor” badges for check-out at the project office. A photo identification badge shall be issued to those persons meeting the screening criterion described in Section 1.1.1. Any person who is assigned to perform any work at any School District location under the Contract shall be required to wear their identification badge while on site.

Subcontractor shall coordinate screening and testing of their employees prior to mobilizing the project. The cost of this background screening and drug testing shall be included within the subcontractor’s proposal.
ATTACHMENT 3

POST CONSTRUCTION PHASE SERVICES

- PROJECT POST-CONSTRUCTION SERVICES:
  - Provide operating and maintenance manuals.
  - Provide as-built drawings
  - Secure and assemble warranties or guarantees.
  - Provide check-out of equipment.
  - Instruct operating personnel in equipment operating and maintenance procedures.
  - Assist in actual start-up of equipment.
  - Implement close-out procedures and ensure requirements are met:
    - Subcontractors’ and vendors’ final payment
    - Resolution of claims
    - Final change orders
    - Lien releases
    - Final lien waivers
    - Consent of sureties
  - Assist Owner in enforcement of warranties or guaranties.
  - Conduct walk-through with Owner and Contractor one year after project completion.
Coppell Independent School District

2016 BOND PROGRAM
Appendix A

FELONY CONVICTION NOTICE (SUBMIT WITH QUALIFICATIONS)
FELONY CONVICTION NOTICE

State of Texas Legislative Senate Bill No. 1, Section 44.034, Notification of Criminal History, Subsection (a) states, “a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony.”

Subsection (b) states, “a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract.”

THIS NOTICE IS NOT REQUIRED OF A PUBLICLY-HELD CORPORATION

I, the undersigned agent for the firm names below, certify that the information concerning notification of felony convictions has been reviewed by me and the following information furnished is true to the best of my knowledge.

VENDOR'S NAME

AUTHORIZED COMPANY OFFICIAL’S NAME (PRINTED): ___________________________________________

A. My firm is a publicly-help corporation, therefore, this reporting requirement is not applicable.

Signature of Company Official: __________________________________________________________

B. My firm is not owned nor operated by anyone who has been convicted of a felony:

Signature of Company Official: __________________________________________________________

C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony:

Name of Felon(s): ___________________________________________________________

Details of Conviction(s): ____________________________________________________________

__________________________________________

Signature of Company Official

A-2
CONTRACTOR EVALUATION FORM (COMPLETED BY THE SELECTION COMMITTEE AFTER RECEIPT OF QUALIFICATIONS)
COPPELL INDEPENDENT SCHOOL DISTRICT 2016 BOND PROGRAM
CONTRACTOR EVALUATION FORM

RATING SCALE: Excellent: 5   Above Average: 4   Average: 3   Below Average: 2   Poor: 1

EXPERIENCE
1) Is the Respondent knowledgeable about, experienced in the North Texas construction market?

2) How substantial is the Respondent's recent experience as Contractor in the construction of educational projects of comparable size and complexity?

3) How substantial is the Respondent's recent experience as Contractor in providing pre-construction services for educational projects of comparable size and complexity?

4) What is the Respondent's litigation record?

<table>
<thead>
<tr>
<th>Subtotal</th>
<th>0</th>
<th>0</th>
<th>0</th>
<th>0</th>
</tr>
</thead>
</table>

DISTRICT'S NEEDS
1) Does the description provided by the Respondent of its pre-construction services evidence both understanding and capabilities of the process in general and as it apply to this specific project?

2) Does the Respondent appear to have the capability to meet the District's schedule objectives?

3) Does the Respondent appear to be able to provide detailed cost estimates that can be useful to the District and the Architect?

4) Does the Respondent appear to be able to provide cost estimates that are consistent with the actual bids?

5) If savings are realized during construction, what percentage will be returned to the District at the end of the project(s)?

6) If the Respondent has contingency remaining at the end of the project(s), what percentage will be returned to the District?

7) What is the quality of the schedules submitted in the RFQ response?

8) Does the Respondent appear to have the capability to provide constructability analysis?

<table>
<thead>
<tr>
<th>Subtotal</th>
<th>0</th>
<th>0</th>
<th>0</th>
<th>0</th>
</tr>
</thead>
</table>

PROPOSED PERSONNEL AND MANAGEMENT TEAM
1) Quality/Experience/ and Reputation of staff proposed for this type of Project?

2) Does the Respondent appear to have the staff necessary to adequately serve the needs of the District?

3) Do the personnel proposed for the projects appear to have the appropriate experience, capabilities?

4) Have the proposed personnel demonstrated the ability to demand quality work?

<table>
<thead>
<tr>
<th>Subtotal</th>
<th>0</th>
<th>0</th>
<th>0</th>
<th>0</th>
</tr>
</thead>
</table>

FINANCIAL STRENGTH
1) Does the Respondent have adequate bonding capacity?

<table>
<thead>
<tr>
<th>Subtotal</th>
<th>0</th>
<th>0</th>
<th>0</th>
<th>0</th>
</tr>
</thead>
</table>

TOTAL
0 0 0 0

RANK A-4
2016 BOND PROGRAM
Appendix C

PROPOSAL TABULATION FORM (TO BE COMPLETED BY SHORT-LISTED COMPANY ONLY)
<table>
<thead>
<tr>
<th>Item #</th>
<th>Item/Description - Fees</th>
<th>Vendor Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td><strong>Pre-Construction Fee</strong> (Pre-Design through Bidding &amp; Negotiations)</td>
<td>$0</td>
</tr>
<tr>
<td>2</td>
<td><strong>Construction Services Fee Percentage</strong> (this fee % would apply to all projects associated with Bid Package A):</td>
<td>0.00%</td>
</tr>
<tr>
<td></td>
<td>$50,978,000</td>
<td>(Project Budget)</td>
</tr>
<tr>
<td>3</td>
<td><strong>Extended Fee</strong> (Construction Services Fee % x Project Budget amount):</td>
<td>$0</td>
</tr>
<tr>
<td>4</td>
<td><strong>Field &amp; Office Staff (line 14):</strong></td>
<td>$0</td>
</tr>
<tr>
<td>5</td>
<td><strong>General Conditions (line 23):</strong></td>
<td>$0</td>
</tr>
<tr>
<td><strong>Total Cost</strong> = ($ values of lines 1-4)</td>
<td><strong>$0</strong></td>
<td></td>
</tr>
</tbody>
</table>

**Identify the following:**

Percent of design/construction contingency carried for each phase.
GMP amount shall include ALL Contractor identified contingencies AND any other allowances determined by the Contractor (e.g. "utility allowance", "scaffolding", "overtime") that aren’t part of the Contractor’s overhead for managing the work (e.g. "permitting", "temporary facilities", "cleaning").

<p>| 6     | SD: % | 0% |
|       | DD: % | 0% |
|       | CD: % | 0% |
|       | GMP: % | 0% |</p>
<table>
<thead>
<tr>
<th>Onsite Field Office Staff</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Bid Package Projects/Staffing</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Project Manager</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cost of Services</td>
<td>$0</td>
<td></td>
</tr>
<tr>
<td>Percentage of Time Dedicated</td>
<td>0%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Job Superintendent</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cost of Services</td>
<td>$0</td>
<td></td>
</tr>
<tr>
<td>Percentage of Time Dedicated</td>
<td>0%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Project Engineer</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cost of Services</td>
<td>$0</td>
<td></td>
</tr>
<tr>
<td>Percentage of Time Dedicated</td>
<td>0%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Other Field Office Staff - Accounting</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cost of Services</td>
<td>$0</td>
<td></td>
</tr>
<tr>
<td>Percentage of Time Dedicated</td>
<td>0%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Other Field Office Staff - Defined by Respondent</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cost of Services</td>
<td>$0</td>
<td></td>
</tr>
<tr>
<td>Percentage of Time Dedicated</td>
<td>0%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Other Field Office Staff - Defined by Respondent</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cost of Services</td>
<td>$0</td>
<td></td>
</tr>
<tr>
<td>Percentage of Time Dedicated</td>
<td>0%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Other – Expenses of Home office to pass on to project (Identify each expense anticipated and dollar amount of each)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(item one)</td>
<td>$0</td>
<td></td>
</tr>
<tr>
<td>(item one)</td>
<td>$0</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Subtotal – On-site Field Office Staff</strong></td>
<td>$0</td>
<td></td>
</tr>
<tr>
<td></td>
<td>General Conditions</td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>------------------------------------</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>All Risk Builder’s Insurance:</td>
<td>$0</td>
</tr>
<tr>
<td>16</td>
<td>General Commercial Liability Insurance:</td>
<td>$0</td>
</tr>
<tr>
<td>17</td>
<td>All Other Insurance in Addition to CGL Required:</td>
<td>$0</td>
</tr>
<tr>
<td>18</td>
<td>Contractor Bond:</td>
<td>$0</td>
</tr>
<tr>
<td>19</td>
<td>Contractor Insurance:</td>
<td>$0</td>
</tr>
<tr>
<td>21</td>
<td>Other – Please specify below:</td>
<td>$0</td>
</tr>
<tr>
<td>22</td>
<td>Other – Please specify below:</td>
<td>$0</td>
</tr>
<tr>
<td>23</td>
<td>Total - General Conditions:</td>
<td>$0</td>
</tr>
<tr>
<td>24</td>
<td>Identify what the total percentage of subcontractors the contractor will require to be bonded and the total dollar amount that would be:</td>
<td>0%</td>
</tr>
<tr>
<td>25</td>
<td>Insurance Rate Modifier:</td>
<td>0.0</td>
</tr>
<tr>
<td>26</td>
<td>Amount of Commercial General Liability:</td>
<td>$0</td>
</tr>
</tbody>
</table>
TASB AMENDMENTS TO THE AIA DOCUMENT A133-2009,
STANDARD FORM OF AGREEMENT BETWEEN OWNER AND
CONSTRUCTION MANAGER AS THE CONSTRUCTOR
AMENDMENTS TO THE STANDARD FORM OF AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER AS CONSTRUCTOR
AIA DOCUMENT A133-2009

DATE: ______________________, 2016

CONTRACT DATE: ______________________, 2016

OWNER: Coppell Independent School District
200 S. Denton Tap Road
Coppell, Texas  75019
Telephone: 214.496.6000

CONSTRUCTION MANAGER: ______________________
____________________
____________________
Telephone: _______________

PROJECT: 2016 Bond Program

ARCHITECT: Stantec Consulting Services Inc.
5717 Legacy Drive, Suite 250
Plano, Texas  75024
Telephone: 214.473.2400

OWNER’S DESIGNATED REPRESENTATIVE: Sid Grant
Assistant Superintendent for
Business and Support Services
Coppell Independent School District

Louis Macias
Director of Facilities
Coppell Independent School District
WHEREAS Coppell Independent School District (hereinafter referred to as “Owner”) and ________________ (hereinafter referred to as “Construction Manager”) desire to enter into a contract under which Construction Manager will perform construction services relating the above-referenced Project on behalf of Owner;

WHEREAS Owner and Construction Manager have agreed to enter into AIA Document A133-2009 Agreement (“Contract”) as the basic form for that contract; and

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

1. §1.1 shall be modified by inserting “as amended,” in the first line after “Agreement” and after “(General, Supplementary and other Conditions).”;

   Inserting “all sections of the Project Manual,” before “other documents” and deleting “and” before “Modifications,”

   Inserting “the proposal signed by the Construction Manager, the request for proposals, and Contractor's proof of payment, and performance bonds and proof of insurance,” before “all of which form” in the first sentence;

   Adding the following sentence at the end of the existing paragraph: “Any reference to AIA Document A201-2007 in this Agreement shall be construed as the AIA Document A201-2007, as amended.”

2. §1.1.1 shall be added as follows:

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

3. §1.1.2 shall be added as follows:

“§1.1.2 The Board of Trustees, by majority vote, is the only representative of the Owner, an independent school district, having the power to enter into or amend a contract, to approve changes in the scope of the Work, to approve and execute a Change Order or Construction Change Directive modifying the Guaranteed Maximum Price to agree to an extension to the date of Substantial or Final Completion, or to terminate a contract. The Owner designates the following as the individual authorized to sign documents on behalf of the Board of Trustees: Dr. Mike Waldrip, Superintendent of Schools, or successor; and Mr. Sid Grant, Assistant Superintendent for Business and Support Services, or successor.”

4. §1.1.3 shall be added as follows:

“The Board designates the authorized representatives identified on the front page to act on its behalf as provided in paragraph 3.2 of this Agreement.”

5. §1.2 shall be modified by inserting the following “to perform the Work defined in the Contract Documents, in accordance with the Owner's requirements and construction cost limitations, as approved by the Owner's Board of Trustees as set forth in the Contract Documents;” after “interests of the Owner” in the first sentence; adding “to furnish construction services, if allowed in accordance with law” after “services and supervision,” in the first sentence, and;

Adding the following sentence at the end of the existing paragraph: “The Owner and Construction Manager shall endeavor to promote harmony and cooperation among the Owner, Architect, Construction Manager, Construction Manager's subcontractors, and other persons or entities employed by the Owner for the Project.”

6. §2.1.2 shall be amended by adding “which shall satisfy Owner's time requirements” after “installation and construction” in the third and last sentence.

7. §2.1.2.1 shall be added as follows:
“§2.1.2.1 During the Preconstruction Phase, the Construction Manager shall review the Contract Documents to ascertain whether the components of the plumbing, electrical and mechanical systems may be constructed without interference with each other, or with the structural or architectural components of the Project, or with existing systems. In the event that conflicts between the systems are discovered, the Construction Manager shall promptly notify the Owner and Architect in writing.”

8. § 2.1.2.2 shall be added as follows:

“§2.1.2.2 Notwithstanding any provision of the General Conditions of the Contract for Construction to the contrary, the Construction Manager shall not be entitled to additional compensation for any delay or disruption to the Work arising from any conflict between the mechanical, electrical, and plumbing systems with each other, or with the structural or architectural components of the Work, or with existing systems, if such conflicts should have been discovered during the Construction Documents Phase by the Construction Manager through the exercise of reasonable diligence, and the Owner and Architect were not informed of such conflicts as required by subparagraph 2.1.2.1. This provision shall apply only with respect to conflicts appearing in the Drawings and Specifications provided for the Construction Manager’s review prior to proposal of a Guaranteed Maximum Price.”

9. §2.1.3 shall be amended by adding “Project Schedule” as the title to this section; inserting “dates of Substantial Completion and Final Completion, after “advance of construction;” in the last sentence, and adding the following sentence at the end of the existing section:

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

10. §2.1.4 shall be amended by adding the following sentence at the end of the existing section:

“The Construction Manager shall make recommendations to the Owner and Architect regarding the phased issuance of Drawings and Specifications so as to facilitate the proposal of a Guaranteed Maximum Price when all elements of the Drawings and Specifications are at least ninety percent complete, unless mutually agreed otherwise by the Architect, Owner and the Construction Manager.”

11. §2.1.5.2 shall be amended by adding the following at the end of the existing last sentence:

“and/or cost reductions, including but not limited to, substitution of materials or revisions or alterations to the Design Development Documents or the Construction Documents, to bring the Project within the Owner’s budget, but shall not delete necessary components of the Project without Owner’s Board of Trustees’ consent. In the event that the quality or scope identified in the estimates are unacceptable or exceed the Owner’s identified budget,
the Construction Manager shall work with the Architect to develop options that are acceptable to Owner and are within the Owner’s budget.”

12. §2.1.6 shall be amended by adding the following at the end of the existing sentence.

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

13. §2.1.8 shall be amended by adding the following new sentence after the second sentence:

“The recommendations and advice of the Construction Manager concerning design alternatives and potential cost savings shall be subject to the review and approval of the Architect, Owner and the Owner's professional consultants.” and by inserting in the last sentence after “nonconformity discovered by” the following: “, or that reasonably should have been discovered by,”.

14. §2.2.1 shall be amended by deleting “At a time to be” in the first sentence, and replacing it with “When all elements of the Construction Documents are at least 90 per cent complete, as”. 

§2.2.1 shall be further amended by deleting “and” after “Owner” in the first sentence, and deleting “in consultation with” after “Manager and” in the first sentence and inserting a comma between “Manager” and “and”.

§2.2.1 shall be further amended by inserting “; the general conditions” after “Section 2.2.4” in the second sentence.

Add the following at the end of the existing section 2.2.1:

“If any Guaranteed Maximum Price proposal submitted to the Owner exceeds previously-approved estimates or the Owner's budget, then the Construction Manager shall make appropriate recommendations to the Owner and Architect for cost reductions, including but not limited to, substitution of materials or revisions or alterations to the Construction Documents, to bring the Project within the Owner’s budget, but shall not delete necessary components of the Project without Owner’s Board of Trustees’ consent. In the event that the quality or scope identified in the proposal are unacceptable or exceed
the Owner’s identified budget, the Construction Manager shall work with the Architect to
develop options that are acceptable to Owner, are within the Owner’s budget, and meet the
Owner’s requirements for dates of Substantial Completion and Final Completion. The
Construction Manager may propose separate Guaranteed Maximum Prices for separate
Works within the Project, as schedules and efficiencies dictate. The Construction
Manager will work with the Architect to achieve a Guaranteed Maximum Price that is fully
acceptable to Owner and is within the Owner's budget for the Work and for the Project.”

15. §2.2.2 shall be amended by deleting the second sentence of the section.

16. §2.2.3.3 shall be amended by inserting “general conditions,” after “contingency,”.

17. §2.2.3.5 shall be deleted and replaced with: “The date of Final Completion upon which the
proposed Guaranteed Maximum Price is based, which date shall be not more than 30 days
after the date of Substantial Completion.”

18. §2.2.3.6 shall be added and shall read as follows: “The Guaranteed Maximum Price
proposal may not be based in any part on any subcontract or material supply contract which
would require the Owner to compensate the Construction Manager on other than a
maximum price basis.”

19. §2.2.4 shall be amended by adding the following at the end of the existing section:

“The Guaranteed Maximum Price will contain a separately-identified contingency amount
(the “Construction Contingency”). The Construction Contingency is not allocated to any
particular item of the Cost of the Work and is established for the Construction Manager's
use as may be required for costs incurred in the Work from unforeseeable causes, or details
which should have been anticipated by the Construction Manager at the time of the
Owner's approval of the Guaranteed Maximum Price. Such unforeseeable causes or
unanticipated details include, but are not limited to, refinement of details of design within
the scope of standards, quality and quantities which are reasonably inferable from the
Guaranteed Maximum Price documents, the correction of minor defects not relating to
design, delays in receipt of materials, and additional costs relating to Subcontractor
defaults not reimbursed by the Subcontractor's bonding company. The Construction
Manager, with Owner's representative's written approval, may utilize the Construction
Contingency for any of the above items within the Cost of the Work without the necessity
of a Change Order, without constituting a Change in the Scope of the Work, and without
resulting in any change in the Guaranteed Maximum Price. Any unforeseeable causes or
unanticipated details which exceed the Construction Contingency shall be borne by the
Construction Manager at the Construction Manager's sole risk. All savings will accrue
and be available for use, only as detailed above, by the Construction Manager until the
Construction Manager's final accounting. In the final accounting, all supporting
documentation for all uses of the Construction Contingency shall be provided to Owner.
Upon final accounting, all remaining monies in the Construction Contingency shall accrue
to the Owner. The Guaranteed Maximum Price shall also include a separately-identified contingency amount, an "Owner's Contingency," which is defined as a contingency fund within the Guaranteed Maximum Price established by the Owner for the Owner's exclusive use. Monies from Owner's Contingency may be spent in the discretion of Owner's Representative and without additional Board of Trustees approval, but with subsequent notice to Owner's Board of Trustees. Any unused Owner's contingency shall accrue to the Owner. If Construction Manager fails to include a specific line item for Owner's contingency in the Guaranteed Maximum Price, then the identified contingency amount shall be split in half: 50% shall be the Construction Contingency and 50% shall be Owner's Contingency."

20. §2.2.5 shall be amended by adding the following at the end of the existing section:

“As soon as feasible after Architect's preliminary approval of the Construction Manager's proposed Guaranteed Maximum Price, the Architect will prepare the Amendment forms and return them to the Construction Manager for review, signature, and return to the Owner.”

21. §2.2.6 shall be amended by deleting the first sentence of this section and replacing it with “The Owner's Board of Trustees shall be allowed not less than thirty (30) days after receipt of the Construction Manager's signed Guaranteed Maximum Price Amendment to review and take action on the Amendment. Unless the Owner's Board of Trustees accepts the Guaranteed Maximum Price Amendment by Board action within thirty (30) days after District's receipt, the Amendment will not become effective.”

In the original second sentence, insert “Amendment” after the first “Guaranteed Maximum Price”, and delete “and Construction Manager” after “the Owner”.

22. §2.2.9 shall be amended by inserting “not” after “shall” in the sentence, deleting “all sales, consumer, use and similar” and replacing it with “any”; and replacing the rest of the sentence after the word “taxes” with “from which Owner is exempt”.

23. §2.2.10 shall be added as follows:

“§2.2.10 The Construction Manager shall diligently prosecute and achieve Substantial and Final Completion of the Entire Work as provided in the Amendment.”

24. §2.3.1.1 shall be amended by deleting “For purposes of Section 8.1. of A201-2007,” and beginning the section with “[T]he date”, and adding at the end of the existing sentence: “as provided in Section 8.1.2 of A201-2007.”

25. §2.3.1.2 shall be deleted in its entirety.
26. §2.3.2.1 shall be amended by deleting the first two sentences of this section. In the new first sentence, after “The Construction Manager shall”, replace “obtain bids” with “publicly advertise and solicit through competitive purchasing, as required by law, competitive sealed proposals”; and delete “and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Architect.” and replace it with “for the performance of all major elements of the Work.” In the new second sentence replace “bids” with “proposals”.

At the end of the existing section add the following:

“The Construction Manager may seek to perform portions of the Work required to be publicly advertised. If the Construction Manager submits its own proposal for any portion of the Work, it shall do so in the same manner as required of all subcontractors. Owner shall decide whether or not Construction Manager's proposal for self-performing portions of the Work provides the best value to Owner. In opening proposals, neither Construction Manager nor Owner shall disclose the contents of a proposal during the selection process to anyone who is not an employee of the Construction Manager, architect, engineer, or Owner. All proposals shall be made available to the public within seven days after the Owner’s final selection. If Construction Manager's proposal is selected by the Owner, the proposed cost for the self-performed work shall be paid to the Construction Manager, pursuant to progress payments, as if Construction Manager were a subcontractor. Such payments to Construction Manager shall be included in the Cost of the Work, but the Construction Manager shall not receive an additional Construction Manager's fee for self-performed work.”

27. §2.3.2.2 shall be amended by deleting the entire section and replacing it with the following:

“Pursuant to Texas Government Code Chapter 2269, Subchapter F, if during the course of recommending proposals, the Construction Manager recommends to Owner a proposal from a subcontractor, but the Owner requires another proposal to be accepted, the Owner shall compensate the Construction Manager by a change in price, time, and/or Guaranteed Maximum Price for any additional cost and risk that the Construction Manager may incur as a result, if such change exists. Construction Manager shall state the additional cost and/or risk in writing and shall provide written proof of same before Owner compensates Construction Manager.”

28. §2.3.2.2.1 shall be added as follows:

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

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

.3 A notice of the sales tax exemption for the Work and the procedure for obtaining any required exemption verification or certificate;

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

29. §2.3.2.2.2 shall be added as follows:

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

30. §2.3.2.5 shall be amended in the first sentence by inserting “weekly or otherwise regularly-scheduled” after “schedule and conduct”, and after “meetings”, inserting “at which Owner, Architect, Construction Manager, and appropriate Subcontractors”. At the end of the existing section, add: “The Construction Manager shall provide periodic presentations updating the progress, quality and status of the Work to Owner's Board of Trustees, at Owner's request, at no additional cost to Owner.”

31. §2.3.2.6 shall be amended by inserting “by Owner and Construction Manager” after “Guaranteed Maximum Price Amendment”; and, at the end of the existing sentence inserting: “, including the Owner’s occupancy requirements.”

32. §2.3.2.7 shall be amended by inserting “at any time, including at the meetings referenced in paragraph 2.3.2.5” after “Owner and Architect” in the third sentence.

33. §2.3.2.8 shall be amended by inserting “, including changes to the Work approved by Owner,” after “progress” in the first sentence.

34. §2.3.3 shall be added as follows:

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

.1 The Occupational Safety and Health Administration standards for trench safety in effect for the Construction of the Work.

.2 The special shoring requirements, if any, of the Owner.”
.3 Any geotechnical information obtained by Owner for use by the Construction Manager in the design of the trench safety system.”

35. §2.3.4 shall be added as follows:

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

36. §2.6 shall be added as follows:

“§2.6 Per Texas Government Code §2269.275, if a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected, the Construction Manager may itself fulfill, without advertising, the contract requirements or select a replacement trade contractor or subcontractor to fulfill the contract requirements. Construction Manager shall be paid for its own performance in accordance with §2.3.2.1 and §6.2.1 herein.”

37. §3.1.2 shall be deleted in its entirety.

38. §3.1.3 shall be amended by inserting “, including the Owner’s Contingency as provided in Section 2.2.4.” after “all of these costs” at the end of the first sentence.

39. §3.1.4 shall be amended by deleting the second and third sentences and replacing them with the following: “Such documents shall be provided for information only and are not warranted or represented to show the conditions at the Project site accurately. Construction Manager may use the information at its own risk and shall use customary precautions relating to the performance of the Work. Notwithstanding the preceding sentences and the delivery of surveys or other documents and reports by Owner, Construction Manager shall perform all work in such a non-negligent manner so as to avoid damaging any utility lines, cables, pipes, or pipelines on the Property. Contractor shall be responsible for any damage done to such lines, cables, pipes and pipelines during the Work.”

40. §3.1.4.1 shall be amended by replacing “and” with “or” after the words “by law”.

41. §3.1.4.2 shall be amended by inserting “as provided in Section 2.2.3 of AIA A201-2007” after “surveys” in the first line of this section, and deleting the remaining portion of this section.

42. §3.1.4.3 shall be amended by inserting: “Unless provided by the Architect by agreement with the Owner” at the beginning of the section; changing the upper case “T” to a lower case “t” for the word “The” before “Owner”; after “services are”, inserting “reasonably
required by the scope of the Work and are”; and after “requested”, inserting “by the Architect or Construction Manager and approved by the Owner.”

43. §3.1.4.4 shall be amended by replacing “shall” with “may” in the second sentence; and inserting “reasonable” between “Construction Manager’s” and “written request.”

44. §3.2 shall be amended by deleting the existing section and replacing it with the following:

“Owner's Board of Trustees shall designate one or more authorized representatives to act on its behalf in the day-to-day administration of the Project, to issue stop work orders, and to authorize expenditures within Owner's contingency. The Board designates as its authorized representatives, the following individuals: Sid Grant, Assistant Superintendent for Business and Support Services and Louis Macias, Director of Facilities.”

45. §3.2.1 shall be amended by inserting “the Owner” before “may” and “determine to” after “may”. At the end of the existing section, add the following sentence: “Construction Manager shall furnish all legal, insurance and accounting services that Construction Manager may determine to be necessary to meet Construction Manager's needs and interests.”

46. §3.3 shall be amended by deleting the existing language and replacing it with the following:

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

47. §3.5 shall be added as follows:

“§3.5 INSPECTION AND TESTING

Pursuant to Texas Government Code §2269.058, the Owner shall provide or contract for, independently of the Construction Manager, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the Work by Owner.”

48. §4.1.3 shall be amended by replacing “shall” with “may”.

49. §4.2.2 shall be amended by replacing “upon presentation” in the first sentence with “within forty five (45) days of receipt”, and inserting “and application for payment for the Architect” at the end of the first sentence. In the second sentence, insert “more than” after “Amounts unpaid”, replace “date” with “receipt for the Architect”, and after “shall bear interest” delete the remainder of this section and replace it with “in accordance with Texas Government Code Section 2251.025. (Note: These blanks should be filled in with..."
"30" if the school board meets more often than once per month, and with "45" if the school board meets once per month.)"

50. §5.1 shall be amended at the end of the existing paragraph by inserting “plus the general conditions, the total of which shall not exceed the Guaranteed Maximum Price.”

51. §5.1.1 shall be amended by adding the following at the end of the existing section: “The fee shall be calculated as a percentage of the Cost of the Work, and not as a percentage of the Contract Sum. No Construction Manager's fee shall be paid on the Construction Manager's Contingency or the Owner's Contingency until funds are allocated from those contingencies to the Cost of the Work, or as provided in § 2.3.2.1.”

52. §5.1.2 shall be amended by filling in the blank after the existing language: “Only by agreement of Owner’s Board of Trustees”.

53. §5.1.3 shall be amended by filling in the blank after the existing language: “See AIA Document A201, Section 7.1.4.”

54. The original §5.1.4 shall be renumbered §5.1.4.1, and a new §5.1.4 shall be added as follows:

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

55. The new §5.1.4.1 shall be amended by inserting “be subject to the Owner’s prior approval and shall” after “equipment shall”.

56. §5.1.4.2 shall be added as follows:

“§5.1.4.2 Wages or salaries of the Construction Manager’s supervisory and administrative personnel when stationed at the site with the Owner’s prior approval.”

57. §5.1.4.3 shall be added as follows:

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

58. §5.1.4.4 shall be added as follows:

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

59. §5.1.4.5 shall be added as follows:

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

60. §5.1.5 shall be deleted in its entirety.

61. §5.2.1 shall be amended by inserting “, as approved by Owner’s Board of Trustees” in the first sentence of the section after “time to time”. In the second sentence, replace “Cost of the Work” with “Contract Sum”. At the end of the original paragraph, add the following sentences: “Should the final audited Contract Sum be less than the Guaranteed Maximum Price, then the difference between the Contract Sum and the Guaranteed Maximum Price shall be considered as savings to the Owner, and Owner shall have no obligation to pay same to the Construction Manager. Construction Manager shall also consider as savings to the Owner all unused funds from any Contingency account. The Construction Manager shall not participate in any savings; all savings shall be credited to Owner.”

62. §5.2.2 shall be amended by replacing “Date” with “Dates” and inserting “and Final Completion” after “Substantial Completion.”

63. §5.3.1 shall be amended by inserting “, with Board of Trustees’ approval, if appropriate”, after the word “Owner” in the first sentence; inserting the word “Either” at the beginning of the last sentence before the word “The” and changing the “T” to a lower case “t”; and replacing the word “shall” in the last line of the section with “or the Owner, as appropriate, may”.

64. §5.3.2 shall be amended by replacing the first word “Adjustments” with “Increases or decreases, if any,”.
65. §5.3.5 shall be amended by replacing the word “shall” with the word “may”.

66. §6.1.1 shall be amended by inserting in the first sentence, after the word “mean” the words “the following”; inserting “, except those costs compensated as general conditions under Section 5.1.4 above”; after the word “Work”; and at the end of the original section, adding the following sentence: “Cost of the Work that exceeds the Guaranteed Maximum Price shall be borne by the Construction Manager.”

67. §6.1.2 shall be amended by adding the word “the” before “Guaranteed Maximum Price Amendment”.

68. §6.2.1 shall be amended by inserting the words “any portion of” after the word “perform”; inserting “written” after the word “prior”; and inserting “, to the extent allowed by Texas Government Code Chapter 2269, Subchapter F.” after “workshops”.

69. §6.2.2 shall be deleted in its entirety.

70. §6.2.3 shall be amended by inserting “, to the extent not compensated under general conditions.” at the end of the existing paragraph.

71. §6.2.4 shall be amended by inserting “, to the extent not compensated under general conditions.” at the end of the existing paragraph.

72. §6.2.5 shall be deleted in its entirety.

73. §6.3 shall be amended by adding the following at the end of the original paragraph: “Any Subcontract Work to be performed by the Construction Manager’s own forces on the basis of a bid or proposal submitted by the Construction Manager per § 2.3.2.1, as amended, shall be treated as Work performed by a Subcontractor under this Section. The Construction Manager’s compensation for such Subcontract Work performed shall be based on the amount of the bid or proposal submitted by the Construction Manager for such Work, rather than “actual costs” as provided elsewhere in Article 6 of this Agreement.

74. §6.4.1 shall be amended by inserting “Owner-approved” before the word “storage”.

75. §6.5.1 shall be amended by deleting the word “storage” in the first line of the section.

76. §6.5.2 shall be deleted in its entirety.

77. §6.5.3 shall be amended by adding “, other than final clean-up.” at the end of the original section.

78. §6.5.4 shall be deleted in its entirety.
§6.5.5 shall be deleted in its entirety.

§6.5.6 shall be amended by inserting the word “written” before “approval”.

§6.6.1 shall be amended by deleting the last sentence.

§6.6.2 shall be amended by inserting the words “for materials” after “authority”; inserting “, but not incorporated in the Work,” after the word “Work”; and adding “and Owner is not exempt” at the end of the sentence.

§6.6.4 shall be amended by inserting “and paid by the Constriction Manager” after the first “Contract Documents”; and deleting “, and which do not fall within the scope of Section 6.7.3” at the end of the section.

§6.6.5 shall be amended in the first sentence by deleting “; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents; and payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims and payments of settlements made with the Owner’s consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Construction Manager’s Fee or subject to the Guaranteed Maximum Price.”

§6.6.6 shall be deleted in its entirety.

§6.6.7 shall be amended by replacing “other than the Construction Manager’s negligence or failure to fulfill a specific responsibility in the Contract Documents” with “directly resulting from the Owner’s action or decisions”.

§6.6.8 shall be deleted in its entirety.

§6.6.9 shall be deleted in its entirety.

§6.7.3 shall be deleted in its entirety.

§6.7.4 shall be amended by adding the following at the end of the original section: “or other provision of or amendments to this Agreement. However, notwithstanding anything in Article 6 to the contrary, no reimbursable cost or expense will be paid again if it is also included and paid in any general conditions amount submitted by Construction Manager.”

The following subsections of §6.8.1 shall be amended.

.5 shall be amended by deleting “Except as provided in Section 6.7.3 of this Agreement”, and changing the lower case “C” for the word “Costs” to an upper case “C”.
Adding subsections .9, .10, .11 and .12 as follows:

.9 Delay damages or claims.
.10 Storage costs, unless with prior written Owner approval.
.11 All costs intentionally deleted from Section 6 above, including all subsections.
.12 All items included in either general conditions under Section 5.1.4 above, or the Construction Manager's Fee in Section 5.1.1 above.

92. §6.9.1 shall be amended by inserting a new sentence at the beginning of the section as follows: “Construction Manager shall take advantage of all available discounts, rebates, and refunds for supplies, materials and equipment connected with the Work and which conform to the Contract Documents, which discounts, rebates, and refunds shall accrue to the benefit of the Owner.”; and in the second sentence deleting: “, if (1) before making the payment, the Construction Manager included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager.”

93. §6.10.2 shall be amended by inserting the words “in writing” after the first use of the word “Owner” and after the word “transaction” in the second sentence. Insert, in two places, “2.3.2.2.1, 2.3.2.2.2,” before “and 2.3.2.3” in the second and third sentences. Insert “or refuses” after “Owner fails” in the third sentence.

94. §6.11 shall be amended by inserting “, and other representatives” in the third sentence of the section after “Owner’s auditors”. In the last sentence of this section, replace “three” with “twelve”, and replace “final payment” with “the date of Final Completion.”

95. §7.1.3 shall be amended by deleting the entire section and replacing it with the following: “The Construction Manager shall submit monthly Applications for Payment to both the Architect and Program Manager, if applicable, on AIA Form G702 for approval. Continuation sheets shall be submitted on AIA Form G703. If the Architect and Program Manager, if applicable, approve the application, then they shall submit a Certificate for Payment to the Owner. The Architect and Program Manager, if applicable, may require any additional information deemed necessary and appropriate to substantiate the Application for Payment. Materials that are verified to be on the jobsite or other approved location for use in the Project may also be incorporated into the Application for Payment. The Architect and Program Manager, if applicable, shall have seven (7) days from date of receipt from the Construction Manager of an Application for Payment to approve or reject all or any part of the Application for Payment. The Owner shall pay the undisputed amounts certified by the Architect and Program Manager, if applicable, to the Construction Manager within forty-five (45) days, if Owner's Board of Trustees meets once a month, or thirty (30) days, if Owner's Board of Trustees meets twice a month, of receipt of the Certificate for Payment from the Architect and Program Manager, unless otherwise
provided in the Contract Documents. Undisputed amounts unpaid after the date on which payment is due shall bear interest pursuant to Texas Government Code Section 2251.025.”

96. §7.1.4 shall be amended by adding the following language at the end of the existing section: “Each Application for Payment shall also include a list, with backup data, of how each payment shall be spent, including a list detailing which subcontractors and suppliers will be paid out of funds paid by the Owner and the amount of such payments to subcontractors and suppliers, and in the next payment cycle, proof of each payment to Construction Manager’s subcontractors and suppliers after payment.”

97. §7.1.5 shall be amended by inserting “less any unused Owner’s contingency and unused Construction Manager’s contingency,” in the second sentence after “schedule of values”. Insert, in two places, “and Program Manager, if applicable,” after “the Architect” in the third and fourth sentences.

98. §7.1.6 shall be amended by deleting “the lesser of (1)” and all of the language following “been completed.”

99. The subsections of §7.1.7 shall be amended as follows:

.1 Replace “Section 7.3.9” with “Article 7”;
.3 Delete “, less retainage of ( ) percent (%);”
.4 Delete this subsection in its entirety;
.6 Insert “or other representatives” after “auditors”;

Add the following subsections:

“.8 Subtract retainage of five percent (5%) of the remaining amount, including the Construction Manager’s Fee, of the progress payment. (Note: Under Texas law, if the retainage exceeds five percent, then the retainage shall be deposited in an interest-bearing account, and the interest earned on the retainage shall be paid to the Construction Manager upon completion of the Work. Texas Government Code Section 2252.032.)

.9 The progress payment amount determined in accordance with this Section shall be further modified under the following circumstances:

.1 Add, if Final Completion of the Work is thereafter materially delayed by Owner or Owner’s agents through no fault of the Construction Manager, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201-2007, as amended.

2. If Owner is entitled to deduct liquidated damages, or any other damages or amounts provided in the Contract Documents, including clean-up fees, then Owner shall be
entitled to deduct such liquidated damages, amounts and fees due Construction Manager at any time.

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

100. §7.1.8 shall be amended by deleting the “(1)”, and “and (2)” and inserting a period after the word “Subcontractors.”. Change the lower case “t” to an upper case “T” for the word “The” before “percentage”, making that a new second sentence. Insert “shall be the same percentage of retainage withheld from Construction Manager.” after “Subcontracts” in the second sentence and add a period at the end of that sentence. Delete “and”, change the “t” to “T”, and begin the third sentence with “The Construction Manager” and at the end of the existing paragraph, replace “in accordance with those agreements” with “that contain the same terms and conditions as those contained in this Agreement.”

101. §7.1.9 shall be amended by inserting “written” after “prior”, and inserting “or as otherwise provided in Section 9.3.2 of the AIA Document A201-2007,” after “approval.

102. §7.1.10 shall be amended by replacing “taking action on the” with “submitting” in the first sentence. Delete “the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by”, and after “the Construction Manager” insert “shall be responsible for all errors and omissions.” Delete all language after “Construction Manager” and, at the end of the paragraph, add “Owner shall not be responsible for Construction Manager’s errors or omissions”.

103. §7.2.1 shall be amended by replacing “, constituting the entire unpaid balance of the Contract Sum” with “(for each Work, if multiple Projects)”.

.1 Replace “except for” with “including”, and delete “as provided in Section 12.2.2 of AIA Document A201-2007, and” and replace it with “except for the Construction Manager’s responsibility”. Insert “Owner agrees in writing necessarily” before “extend”;

.2 After the word “Payment” insert “that are certified by Construction Manager and reviewed and approved by the Owner’s auditors or other representatives”, delete “and”;

.3 After “Architect” insert “and approved by Program Manager, if applicable;”

Add the following:
Construction Manager has provided all documents required by Section 3.5.8 of AIA Document A201-2007; and

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

In the final sentence of this section after the subsections, replace “the issuance of the Architect’s final Certificate for Payment, or as follows:” with “Board approval.”

104. §7.2.1.1 shall be added as follows:

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

.1 Begin with the actual Cost of the Work substantiated by the Construction Manager's final accounting, which includes deductions for all discounts and unused contingencies, and construction savings achieved in the Cost of the Work, if applicable.

.2 Add the actual expended general conditions substantiated by the Construction Manager's final accounting, which includes savings to the Owner for unused general conditions.

.3 Add the Construction Manager's Fee.

.4 Subtract amounts, if any, for which Architect or Owner disputes, refuses or withholds payment, if any.

.5 If Owner is entitled to deduct liquidated damages or any other damages or amounts provided in the Contract Documents, including clean-up fees, then subtract all such liquidated damages, amounts and fees.

.6 If Construction Manager fails or refuses to complete the Work, or has unsettled claims with Owner, then subtract such amounts as the Architect shall determine as the cost for completing incomplete Work and the value of unsettled claims.

.7 Subtract all previous payments made by the Owner.

.8 In no event shall the total of subsections .1, .2, and .3 above exceed the Guaranteed Maximum Price.

.9 If the aggregate of previous payments made by the Owner exceeds the amount due the Construction Manager, the Construction Manager shall reimburse the difference to the Owner, plus interest as allowed by law.”
105. §7.2.2 shall be amended in three places by inserting “or other representatives”, after “Owner’s auditors”.

106. §7.2.3 shall be amended by inserting “or other representatives” in the first sentence after “Owner’s auditors”; by replacing “30 days” with “the time line established in Section 15.2 of A201-2007” in the second sentence; and replacing “30 day” in the third sentence with “time” before the word “period”.

107. §7.2.4 shall be amended by inserting “prior written” after “Owner’s” and by replacing “and” with “that are” after “Section 6.1.1”. Delete the last sentence of the section.

108. §7.3 shall be added as follows:

“§ 7.3 LIQUIDATED DAMAGES

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

109. §7.3.2 shall be added as follows:

“§ 7.3.2 It is expressly agreed as a part of the consideration inducing the Owner to execute this Agreement that the Owner may deduct from the Final Payment made to the Construction Manager a sum equal to $1,000.00 per day for each and every additional calendar day beyond the agreed date of Substantial Completion.”
110. § 7.3.3 shall be added as follows:

“§ 7.3.3 Timely Final Completion is an essential condition of this Agreement. Construction Manager agrees to achieve Final Completion of the Agreement within 30 days of the designated or extended date of Substantial Completion. Owner and Construction Manager agree that should Construction Manager fail to achieve Final Completion of the Agreement by the deadline, Owner shall continue to be damaged to a greater degree by such delay. Construction Manager and Owner agree that the amount of liquidated damages for each calendar day Final Completion is delayed beyond the date set for Final Completion shall be the sum of $1,000.00 per day. Owner may deduct from the Final Payment made to Construction Manager, or, if sufficient funds are not available, then Construction Manager shall pay Owner the amounts specified per day for each and every calendar day the breach continues after the deadline for Final Completion of the Work.”

111. § 7.3.4 shall be added as follows:

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

112. Article 8 shall be amended as follows: “For all phases of the Project, the Construction Manager shall purchase and maintain insurance as required by Article 11, A201-2007 as amended for this Project, to protect Constriction Manager and Owner against all claims, damages, lawsuits, indemnities, or other actions which may arise out of or result from the Construction Manager’s operations under this Contract, whether such operations are by Construction Manager, or by any subcontractor or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable. Prior to performing the Work, the Construction Manager shall provide separate performance and payment bonds in accordance with AIA Document A201-2007 Section 11.5.”

In the blank below this section insert:

“(Note: Seek advice of legal counsel and insurance advisor before filling in the amounts in Article 11 of the A201-2007 to ensure adequate coverage for the Project.) (NOTE: THE AMOUNTS AND CONDITIONS IN ARTICLE 11 OF A201-2007 MUST BE COMPLETED, IN ORDER TO PROTECT THE OWNER'S INTERESTS.)”

113. §9.1 shall be amended by inserting “by the Construction Manager regarding any matter” after “Any Claim”; inserting “or recommendation” after “no decision” in the second sentence; and deleting “, and Section 9.3 of this Agreement shall not apply” at the end of this section.
§9.2 shall be deleted in its entirety.

§9.3 shall be deleted in its entirety.

§10.1.1 shall be amended by inserting “, 14.1.2 or 14.1.4” after “Section 14.1.1”.

“§10.1.4” shall be added in front of the paragraph which follows subsection .3 and which begins with “The Owner shall also pay”.

“§10.1.5” shall be added in front of the final paragraph which begins with “If the Owner accepts assignment”; and “or indemnify” shall be deleted in the first sentence.

§10.2.2 shall be deleted in its entirety.

§10.3 shall be amended by inserting “, if established” after “Guaranteed Maximum Price”; replacing “shall” with “may”; and at the end of the section, deleting “, except that the term “profit” shall be understood to mean the Construction Manager’s Fee as described in Sections 5.1 and 5.3.5 of this Agreement”.

§10.4 shall be amended in the second sentence of this section by deleting “Neither the Owner nor”; changing the lower case “t” in the word “the” to an upper case “T” before “Construction Manager”; inserting “not” before “assign”; and deleting all of the language in the second sentence after “Written consent of the” and replacing it with “Owner’s Board of Trustees.”

In the new third sentence of this section, delete “either party” and replace it with “Construction Manager”, and replace “that party” after “consent” with “The Construction Manager”.

At the end of the existing section, add the following:

“This does not prevent Construction Manager from engaging subcontractors to perform various phases of the Project in accordance with law, but Construction Manager shall be fully responsible to Owner for the work, actions and omissions of all such subcontractors.”

§11.5 shall be added as follows:

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

§11.5.2 Contractor shall require all construction workers, whether Contractor's own forces, or the forces of Contractor's subcontractors, to wear identification tags on the front of their persons during all times that they are on Owner's property. Such identification tags shall have identification of the construction worker by number or other identifying medium in a typeface large enough to be seen from a reasonable distance.

§11.5.3 Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, to park their personal motor vehicles on Owner's property only in the parking places designated by the Owner's campus principal. Any vehicles not parked in the appropriate locations shall be towed at the vehicle owner's sole expense.

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

§11.5.5 Execution of this Agreement shall constitute approval and acceptance of all terms, covenants and conditions as modified and contained in the Contract Documents. As a material consideration of the making of this Agreement, the Modifications to this Agreement shall not be construed against the maker of said Modifications.

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

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

§11.5.8 This Agreement is subject to all applicable federal and state laws, rules, and regulations. Invalidity of any portion of this Agreement under the laws of the State of Texas or of the United States shall not affect the validity of the remainder of this Agreement. Governing law and venue shall be as specified in AIA Document A201-2007 Section 13.1."

<table>
<thead>
<tr>
<th>Amend</th>
<th>Owner</th>
<th>Const. Mgr.</th>
<th>Cons. Constr.</th>
<th>Work</th>
<th>Clause 11.5.2</th>
<th>Clause 11.5.3</th>
<th>Clause 11.5.4</th>
<th>Clause 11.5.5</th>
<th>Clause 11.5.6</th>
<th>Clause 11.5.7</th>
<th>Clause 11.5.8</th>
</tr>
</thead>
</table>
124. §12.1 shall be amended by replacing “Agreement” with “Contract” in the first and second sentences; and adding the following language at the end of the existing sentence: “If any portion of this Contract is determined to be invalid, unenforceable, or void, then that portion shall be severed, and all other portions of this Contract shall remain in full force and effect.”

125. §12.2 shall be amended in the first sentence by deleting “comprise” and replacing it with “are included in”, and replacing “Agreement” with “Contract, in addition to those listed in Section 1.1”. In a new paragraph after subsection .5 add the following language:

“(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201- 2007 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

b. ______________ Response to Request for Qualifications, dated ________, 2016;
d. Certificate of Project Compliance Form;
e. Performance and Payment Bonds; and
f. Certificates of Insurance”

126. §12.3 shall be added as follows:

"§12.3 HOUSE BILL 1295. In 2015, the Texas Legislature adopted House Bill 1295, which added Section 2252.908 of the Texas Government Code. The law states that a governmental entity may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity at the time the business entity submits the signed contract to the governmental entity or state agency. The disclosure requirement applies to a contract entered into on or after January 1, 2016. The Texas Ethics Commission has adopted rules necessary to implement that law, prescribed the disclosure of interested parties form, and posted a copy of the form on the commission’s website. The commission adopted the Certificate of Interested Parties form (Form 1295) on October 5, 2015. The commission also adopted new rules (Chapter 46) on November 30, 2015, to implement the law. Contractor agrees to comply with House Bill 1295, codified in Texas Government Code Section 2252.908.”
The following shall be added at the end of the existing contract:

EXECUTED this _____ day of ______________, 2016.

OWNER: 

By: __________________________
Sid Grant
Assistant Superintendent for Business and Support Services
Coppell Independent School District

CONTRACTOR:

By: ______________________________

__________________________________
__________________________________
TASB AMENDMENTS TO THE AIA DOCUMENT A133-2009
EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT
WHEREAS Coppell Independent School District (hereinafter referred to as “Owner”) and ______________________ (hereinafter referred to as “Construction Manager”) entered into a contract under which Construction Manager will perform construction services relating the above-referenced Project on behalf of Owner;

WHEREAS Owner and Architect have entered into AIA Documents A133-2009, as amended, and A133-2009 Exhibit A, as amended, as the basic forms for that contract;

WHEREAS certain terms and conditions of the A133-2009 Exhibit A must be modified to comply with applicable laws and policies affecting Owner and Construction Manager on this project, Owner and Construction Manager hereby agree to the following amendments to the Contract:

1. Article A.1
   §A.1.1 shall be amended in the third sentence by inserting “as that term is defined in Article 5.1 of the Agreement,” after “Contract Sum”; and at the end of the third sentence
by inserting “plus the general conditions as that term is defined in Article 5.1.4 of the Agreement.”

2. §A.1.1.2 shall be amended after “Construction Manager’s Fee,” by inserting “general conditions,”.

3. §A.1.1.5 shall be amended by inserting “and clarifications” after “Assumptions”.

4. §A.1.1.6 shall be amended by inserting “General Conditions of the Contract, as amended, and the”, before “following Supplementary.”

5. §A.1.1.10 shall be added as follows:
“§A.1.1.10 The Guaranteed Maximum Price is based on the following Unit Prices: ____________”

6. §A.1.1.11 shall be added as follows:
“§A.1.1.11 The Guaranteed Maximum Price is based on the following costs for trench excavation safety protection: ____________”

7. §A.1.1.12 shall be added as follows:
“§A.1.1.12 The Guaranteed Maximum Price is based on the following costs for special shoring requirements: ____________”

8. §A.2.1 shall be amended by deleting “anticipated” at the beginning of the sentence.

9. §A.2.2 shall be added as follows:

“§A.2.2 The date of Final Completion shall be 30 days after the date of Substantial Completion established by this Amendment.”

The following shall be added at the end of the existing contract:

EXECUTED this _____ day of ______________, ____.  

OWNER: __________________________________________

_____________________________ (Printed Name)
Assistant Superintendent for Business and Support Services
Coppell Independent School District

CONTRACTOR: _______________________________________

_____________________________ Title:

AMENDMENTS TO THE GUARANTEED MAXIMUM PRICE AMENDMENT
AIA DOCUMENT A133-2009 EXHIBIT A
The American Institute of Architect claims copyright and trademark rights in and to the above-referenced AIA agreement.
TEXAS ASSOCIATION OF SCHOOL BOARDS LEGAL SERVICES • COPYRIGHT 2010
TASB AMENDMENTS TO THE AIA DOCUMENT A201–2007, GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION
WHEREAS Coppell Independent School District (hereinafter referred to as "Owner") and
_________________ (hereinafter referred to as "Contractor") desire to enter into a contract under
which Contractor will perform construction services relating the above-referenced Projects on
behalf of Owner;

WHEREAS Owner and Contractor have agreed to enter into AIA Document A201-2007
Agreement ("Contract") as the basic form for that contract; and

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

1. §1.1.1 shall be amended by adding ", as amended" after each use of "Agreement" in the
paragraph and after "Conditions of the Contract";

   Adding "all sections of the Project Manual, including" after "Conditions" and "and" after
"Specifications"; and deleting the last sentence in the paragraph.

2. §1.1.1.1 shall be added as follows:

"§1.1.1.1 The Agreement, as amended, represents the entire and integrated agreement
between the Owner and the Contractor and supersedes all prior negotiations,
representations or agreements, either written or oral. Any revision, amendment, or modification to the Standard Form of the Agreement shall be valid, binding, and enforceable only if signed by Contractor and the authorized representative of Owner’s Board of Trustees. In the event of conflict, terms and conditions contained in the Agreement, as amended, shall take precedence over terms and conditions contained in the General Conditions, as amended, and the terms and conditions in the General Conditions, as amended, shall take precedence over all other terms and conditions contained in the other Contract Documents. If the Request for Proposals and the Proposal are included in the Contract Documents, then the Request for Proposals shall take precedence over the Proposal, unless specifically agreed otherwise herein. Any reference to any Contract Document shall mean the document as amended and/or supplemented for this Project.”

3. §1.1.2 shall be amended by adding ", as amended," in the second sentence after "Contract".

In the third sentence, add "written" before "Modification" and adding the following after "Modification": "signed by Contractor, approved by Owner's Board of Trustees, and signed by the representative of Owner's Board of Trustees who is authorized to sign contracts. As a material consideration for the making of the Contract, modifications to the Contract shall not be construed against the maker of said modifications."

Delete the last sentence of the original paragraph.

4. §1.1.2.1 shall be added as follows:

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

5. §1.1.3 shall be amended by adding the following at the end of the existing paragraph:

"The Work includes all of Contractor's responsibilities as to all labor, parts, supplies, skill, supervision, transportation services, storage requirements, and other facilities and things necessary, proper or incidental to the carrying out and completion of the terms of the Contract Documents and the Construction Documents and all other items of cost or value needed to produce, construct and fully complete the public Work identified by the Contract Documents and the Construction Documents. "Construction Documents" means: all Drawings, specifications, submittals, transmittals, deliverables, instructions to Contractors, and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants and shall set forth in detail the requirements for construction of the Project. The Construction Documents shall include Drawings and Specifications that establish in detail the quality levels of materials and systems required for the Project. The
Construction Documents shall reflect all agreements between Owner and Architect concerning Owner's budgetary constraints, programmatic needs and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities. Said Construction Documents shall reflect the Owner's educational program and educational specifications, the State educational adequacy standards in 19 TAC Section 61.1036 and the standards set forth in Section 2.1.4 of AIA Document B201-2007, as amended. The Architect shall provide Construction Documents which are sufficient for Owner to complete construction of the Project, and are free from material defects or omissions. The Construction Documents shall comply with all applicable laws, ordinances, codes, rules, and regulations, as of the date of issuance of construction documents."

6. §1.1.7 shall be amended by changing the title to "CONSTRUCTION DOCUMENTS", and by replacing "Instruments of Service" with "Construction Documents" throughout the paragraph.

7. §1.1.8 shall be amended by changing the title to "PROJECT MANUAL", and by deleting the existing paragraph and replacing it with the following:

"The Project Manual is a volume assembled for the Work which includes the bidding or proposal requirements, sample forms, Conditions of the Contract and Specifications."

8. §1.1.9 shall be added as follows:

"§1.1.9 PROJECT MANUAL ADDENDA

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

The following definitions apply to parties named in the Contract Documents:

Owner: Coppell Independent School District
200 S. Denton Tap Road
Coppell, Texas  75019
Telephone:  214.496.6000

Architect: Stantec Consulting Services Inc.
5717 Legacy Drive, Suite 250
Plano, Texas  75024
Telephone:  214.473.2400
Contractor: ______________________

____________________________

____________________________

Telephone: ______________________

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

Program Manager: ______________

____________________________

____________________________

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

9. §1.1.10 shall be added as follows:

§1.1.10 APPROVED, APPROVED EQUAL, APPROVED EQUIVALENTS, OR EQUAL

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

10. §1.1.11 shall be added as follows:

"§ 1.1.11 ABBREVIATIONS

AIA: American Institute of Architects
ACI: American Concrete Institute
AHERA: Asbestos Hazardous Emergency Response Act
AISI: American Iron and Steel Institute
AISC: American Institute of Steel Construction
ASA: American Standards Association
ASTM: American Society of Testing Materials
AWSC: American Welding Society Code
CERCLA: Comprehensive Environmental Response, Compensation, and Liability Act
EPA: Environmental Protection Agency
FS: Federal Specification
NES: National Electrical Code
NIC: Not in Contract. Indicates work not to be done by this Contractor under this Agreement
OSHA: Occupational Safety and Health Administration
SPR: Simplified Practice Recommendation
UL: Underwriters Laboratories, Inc.

11. §1.1.12 shall be added as follows:

"§1.1.12 BIDS or BIDDING

The terms "Bids" or "Bidding" shall include any kind of competitive purchasing under the Texas Education Code Chapter 44 or Texas Government Code Chapter 2269."

12. §1.1.13 shall be added as follows:

"§1.1.13 MISCELLANEOUS OTHER WORDS

§1.1.13.1 BUSINESS DAY

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

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

§1.1.13.3 HOLIDAYS


§1.1.13.4 WORK DAY

Work days are all calendar days except Holidays.

§1.1.13.5 ANTICIPATED WEATHER DAYS

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

13. §1.1.14 shall be added as follows:

"§1.1.14 CONTRACT SUM

"Contract Sum" shall have the same meaning as in Section 5.1 of the Agreement (A133-2009), as amended for the Project, when the Project is a Construction Manager at Risk Project, and the same meaning as in Section 4.1 of the Agreement (A101-2007), as amended for the Project, otherwise."

14. §1.2.1.1 shall be added as follows:

"§1.2.1.1 During the course of the Work, should any conflict be found in or between the Contract Documents, the Contractor shall be deemed to have estimated the Work on the basis of the greater quantity or better quality, or the most stringent requirement, unless he shall have obtained an interpretation in writing from the Architect as to what shall govern before the submission of his Proposal. The Architect, in case of such conflict, may interpret or construe the documents so as to obtain the most substantial and complete performance of the Work consistent with the Contract Documents and reasonably inferable therefrom, in the best interest of Owner, and the Architect's interpretation shall be final. The terms and conditions of this clause shall not relieve any party of any other obligation under the Contract Documents."

15. §1.2.4 shall be added as follows:

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

16. §1.2.5 shall be added as follows:

"§1.2.5 MATERIALS, EQUIPMENT AND PROCESSES

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

17. §1.2.6 shall be added as follows:

"§1.2.6 STANDARDS AND REQUIREMENTS

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

18. §1.4 shall be amended by adding the following at the end of the original paragraph:

"These Contract Documents shall not be construed to deny or diminish the right of any person to work because of the person’s membership or other relationship status with respect to any organization. Texas Government Code §2269.054."

19. §1.5 shall be amended by replacing "OTHER INSTRUMENTS OF SERVICE" in the title with "CONSTRUCTION DOCUMENTS".

The first sentence in the existing paragraph shall be deleted in its entirety and replaced with the following:

"All ownership rights, whether common law, statutory, or other reserved rights, including copyright ownership of the Construction Documents, are controlled by the Agreement between the Owner and the Architect."

In the second sentence replace "Instruments of Service" with "Construction Documents". In the last sentence of the existing paragraph delete "the Architect’s or Architect’s consultants’" and replace it with "any".

20. §1.5.2 shall be amended by deleting "authorized" in the first sentence and replacing it with "granted a limited license";

Replacing "Instruments of Service" with "Construction Documents" throughout the paragraph;
In the last sentence of the original paragraph, deleting "Owner, Architect and the Architect’s consultant’s" and replace it with "copyright holder"; and

Adding the following at the end of the existing paragraph:

"All copies of the Construction Documents, except the Contractor's record set, shall be returned or suitably accounted for to the copyright holder upon completion of the Work."

21. §1.6 shall be amended by replacing "Instruments of Service" with "Construction Documents".

22. §2.1 shall be amended by deleting the existing paragraph beginning with "person or entity" and replacing it with the following:

"independent school district identified in the Contract Documents. The Board of Trustees, by majority vote, is the only representative of the Owner, an independent school district, having the power to enter into or amend a contract, to approve changes in the scope of Work, to approve and execute a Change Order (except as may otherwise be provided in Owner Policy CV (LOCAL)) or Construction Change Directive modifying the Contract Sum or Guaranteed Maximum Price, or agree to an extension to the date of Substantial or Final Completion or to terminate a contract. The Board will act as soon as reasonably possible to avoid undue delays. The Board designates authorized representatives to act on its behalf for day-to-day operations under the Contract. Unless otherwise designated in the Contract Documents, Owner's authorized representative shall be the Superintendent of Schools, who may delegate responsibilities as appropriate. Owner’s Board of Trustees hereby delegates to the Superintendent of Schools or designee the authority to approve changes to the Work where such changes are within the Owner's contingency or the Contractor’s contingency, and which do not exceed the Guaranteed Maximum Price, or will not increase the dates for Substantial or Final Completion by more than thirty (30) days. Any such change shall be confirmed in writing between the Contractor and Owner’s Superintendent or designee, and notice of such approved changes shall be given to the Board at its next regular meeting. Except as otherwise provided in the Contract Documents, the Architect does not have such authority. Neither Architect nor Contractor may rely upon the direction of any employee of Owner who has not been designated in writing by the Superintendent or Board of Trustees; Owner shall not be financially responsible for actions taken by the Architect or Contractor in reliance upon direction from unauthorized persons."

23. §2.1.2 shall be deleted and replaced with the following:

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

24. §2.1.3 shall be added as follows:

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

25. §2.1.4 shall be added as follows:

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

26. §2.1.5 shall be added as follows:

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

27. §2.2.1 shall be deleted and replaced with the following:

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

28. §2.2.3 shall be amended by adding the following at the beginning of the existing paragraph:

"If requested in writing by the Contractor prior to the start of the Work, the Owner shall furnish surveys known to the Owner", and changing "The" to "the" in that sentence.

The second sentence shall be amended by adding the following at the beginning of the second sentence: "Other than the metes and bounds noted in the legal description of the site,".

Change "The" to "the" in the second sentence, and add "not" after "shall".

Add the following at the end of the existing paragraph:
"Other than the metes and bounds noted in the survey, if any, Owner does not guarantee the accuracy of surveys provided, including the locations of utility lines, cables, pipes or pipelines, or the presence or absence of easements."

29. §2.2.4 shall be amended by deleting the period at the end of the first sentence and all of the second sentence up to the word "after", and leaving the remaining portion of the sentence intact.

Add the following at the end of the existing paragraph:

"Absent such timely notification, any Claim based upon lack of such information or services shall be waived."

30. §2.2.5 shall be amended by deleting "one copy" and replacing it with "two copies", and replacing the second "Contract Documents" with "Construction Documents".

31. §2.3 shall be amended by adding "defective" before the first "Work", and by adding "fails to correct Work" after the first "Work"; adding "or the Construction Documents" after "Contract Documents"; putting a period after "entity" in the final line of the original paragraph; and deleting the remainder of the paragraph beginning with "except", and replacing it with the following: "The authorized Owner's representative having the legal right to stop the Work shall be limited to the Owner's Superintendent of Schools."

32. §2.4 shall be amended by adding "and other consultants" after "Architect’s" in the second sentence.

33. §3.1.1 shall be amended by adding the following before the final period of the existing paragraph: ", and includes the Construction Manager at Risk, if applicable."

34. §3.1.2 shall be amended by adding the following before the first period of the existing sentence: ", and submittals approved pursuant to section 3.12."

35. §3.1.3 shall be amended by adding "activities of the Owner (or Owner’s Program Manager, if applicable)" after the second "Contract" in the paragraph.

36. §3.1.4 shall be added as follows:

"§3.1.4 The Contractor represents and warrants the following to the Owner (in addition to the other representations and warranties contained in the Contract Documents), as an inducement to the Owner to execute this Contract, which representations and warranties shall survive the execution and delivery of the Contract and the Final Completion of the Work:"
.1 that it is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to complete the Work and perform its obligations under the Contract Documents;

.2 that it is able to furnish the tools, materials, supplies, equipment and labor required to timely complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;

.3 that it is authorized to do business in the State where the Project is located and properly licensed by all necessary governmental, public, and quasi-public authorities having jurisdiction over it, the Work, or the site of the Project; and

.4 that the execution of the Contract and its performance thereof are within its duly-authorized powers."

37. §3.2.1 shall be amended by adding the following at the end of the existing paragraph:

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

38. §3.2.2 shall be amended by deleting "not" and deleting "however" in the second sentence of the paragraph. Add the following at the end of the existing paragraph:

"Contractor shall not perform any Work involving an error, inconsistency, or omission without further instructions to Contractor or revised Construction Documents from the Architect."

39. §3.2.3 shall be amended by inserting "Neither the Owner nor" at the beginning of the paragraph; changing the upper case "T" to a lower case "t" for the word "The"; and deleting "not" in the first line of the paragraph.
§3.2.4 shall be amended by adding the following at the beginning of the existing paragraph:

"If the Contractor has knowledge that any of the products or systems specified will perform in a manner that will limit the Contractor's ability to satisfactorily perform the Work or to honor his warranty, or will result in a limitation of or interference with the Owner's intended use, then the Contractor shall promptly notify the Architect and Owner in writing, providing substantiation for his position. Any necessary changes, including substitution of materials, shall be accomplished by appropriate Modification."

The paragraph shall further be amended by adding: "Contractor shall take field measurements, verify field conditions, and shall carefully compare them to the Construction Documents." after the original second sentence.

In the original third sentence, delete "If the Contractor performs those obligations"; change the lower case "t" to an upper case "T" for the word "the"; and delete "not".

Add the following before the first period of the original paragraph:

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

§3.2.5 shall be added as follows:

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

42. §3.2.6 shall be added as follows:

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

43. §3.2.7 shall be added as follows:

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

.1 The location, condition, layout, drainage and nature of the Project site and surrounding areas;

.2 Generally prevailing climatic conditions;

.3 Anticipated labor supply and costs;

.4 Availability and cost of materials, tools and equipment; and

.5 Other similar issues."

44. §3.3.2 shall be amended by adding the following at the end of the existing paragraph:

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

45. §3.3.4 shall be added as follows:

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

46. §3.3.5 shall be added as follows:

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

.1 The Occupational Safety and Health Administration standards for trench safety in effect for the Construction of the Work;

.2 The special shoring requirements, if any, of the Owner; and

.3 Any geotechnical information obtained by Owner for use by the Contractor in the design of the trench safety system.

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

47. §3.3.6 shall be added as follows:

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

48. §3.3.7 shall be added as follows:

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

49. §3.3.8 shall be added as follows:

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

50. §3.4.1 shall be amended by adding "qualified, careful, and efficient workers and" in the first sentence before "labor", and after "labor" add "eligible to work in accordance with state and federal law. In addition, unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for".

At the end of the original paragraph add the following: "Before ordering any material or doing any Work, Contractor shall verify all dimensions and check all conditions in order to assure Contractor that they are the same as those in the Drawings, Specifications, submittals, transmittals, deliverables, instructions to Contractors and other Construction Documents. Any inconsistency shall be brought to the attention of the Architect. In the event that discrepancies occur between ordered material and actual conditions and Architect was not notified beforehand, then costs to correct such discrepancies shall be borne by Contractor."

51. §3.4.2 shall be amended by adding "prior written" before "consent of the Owner".

52. §3.4.2.1 shall be added as follows:

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

53. §3.4.2.2 shall be added as follows:

"§3.4.2.2 The Contractor must submit to the Architect and the Owner: (i) a full explanation of the proposed substitution and submittals of all supporting data, including technical information, catalog cuts, warranties, test results, installation instructions, operating procedures, and other like information necessary for a complete evaluation for the substitution; (ii) a written explanation of the reasons the substitution should be considered, including the benefits to the Owner and the Work in the event the substitution is acceptable; (iii) the adjustment, if any, in the Contract Sum; (iv) the adjustment, if any, in the time of completion of the Contract and the construction schedule; and (v) an affidavit stating (a) the proposed substitution conforms to and meets all requirements of the pertinent Specifications and the requirements shown on the Drawings, and (b) the Contractor accepts the warranty and will coordinate the Work to be complete in all respects, as if originally specified by the Architect. Proposals for substitutions shall be submitted in triplicate to
the Architect in sufficient time to allow the Architect no less than fifteen (15) working days for review. No substitutions will be considered or allowed without the Contractor's submittals of complete substantiating data and information."

54. §3.4.2.3 shall be added as follows:

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

55. §3.4.3 shall be amended by adding the following language at the end of the original paragraph:

"THE CONTRACTOR RELEASES, INDEMNIFIES AND HOLDS HARMLESS THE OWNER FOR CONTRACTOR'S FORCES' NON-COMPLIANCE WITH OWNER'S DRUG-FREE, ALCOHOL-FREE, WEAPON-FREE, HARASSMENT-FREE, AND TOBACCO-FREE ZONES, CONTRACTOR'S FORCES' NON-COMPLIANCE WITH CRIMINAL LAW, OR CONTRACTOR'S OR CONTRACTOR'S FORCES' NON-COMPLIANCE WITH IMMIGRATION LAW OR REGULATIONS. Any individual found by Owner to have violated these restrictions is subject to permanent removal from the Project, at Owner’s request. Contractor shall place similar language in its subcontract agreements, requiring its Subcontractors and Sub-subcontractors to be responsible for their own forces and Contractor shall cooperate with the Owner to ensure Subcontractor and Sub-subcontractor compliance."

56. §3.4.4 shall be added as follows:

"§3.4.4 Including, but not limited to, the specific requirements of Section 10.1.1, Contractor, its subcontractors and vendors shall bear responsibility for compliance with all federal and state laws, regulations, guidelines, and ordinances pertaining to worker safety and applicable to the Work. Contractor further recognizes that the Owner and Architect do not owe the Contractor any duty to supervise or direct his work so as to protect the Contractor from the consequences of his own conduct."

57. §3.4.5 shall be added as follows:

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

58. §3.4.6 shall be added as follows:
§3.4.6 CRIMINAL HISTORY CHECKS

§3.4.6.1 Contractor shall obtain all criminal history information required by Texas Education Code Chapter 22 regarding its "covered employees", as defined below. If Contractor is required by Chapter 22 to obtain the information from the Fingerprint-based Applicant Clearinghouse of Texas, then Contractor will also subscribe to that person's criminal history record information. Before beginning any Work on the Project, Contractor will provide written certification to the District that Contractor has complied with the statutory requirements as of that date. Upon request by Owner, Contractor will provide, in writing: updated certifications and the names and any other requested information regarding covered employees, so that the Owner may obtain criminal history record information on the covered employees. Contractor shall assume all expenses associated with obtaining criminal history record information.

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

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

§3.4.6.4 Subcontractors or any subcontractor entity, as defined by Texas Education Code §22.0834(p)(2), shall be required by the terms of their contract with Contractor or any other contracting entity (as defined in Texas Education Code §22.0834(p)(1)), and by Texas law, to obtain the required criminal history record information on their employees, agents, or applicants, to give required certifications to Owner and the contracting entities, and to obtain required certifications from the subcontracting entity’s subcontractors.

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

59. §3.4.7 shall be added as follows:

"§3.4.7 OWNER’S ADDITIONAL REQUIREMENTS RELATED TO CRIMINAL HISTORIES

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

60. §3.4.8 shall be added as follows:

"§ 3.4.8 PREVAILING WAGE RATES

§3.4.8.1 Contractor, Contractor's Subcontractors and Sub-subcontractors shall pay all workers not less than the general prevailing rate of per diem wages for work of a similar character where the Project is located, as detailed in the "Minimum Wage Schedule" provided herein. Wages listed are minimum rates only. However, no claims for additional compensation above the Contract Sum shall be considered by the Owner because of payments of wage rates in excess of the applicable rate provided herein. Texas Government Code Section 2258 et seq.; Texas Labor Code Section 62.051 et seq.

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

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

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

§3.4.8.5 Prevailing Wage Rates: [attach Schedule as Exhibit A]. If no schedule is attached, then the parties shall use the wage rate determined by the US Department of Labor in accordance with the Davis-Bacon Act, 40 USC Section 276a, which can be accessed on
the internet at www.gpo.gov/davisbacon/, or determined by any local contractor association, whichever is less."

61. §3.5 shall be amended by adding the following language after the original second sentence.

"§3.5.1 The Contractor further warrants that Contractor shall perform the Work in a good and workmanlike manner, continuously and diligently in accordance with generally accepted standards of construction practice for construction of projects similar to the Project, except to the extent the Contract Documents expressly specify a higher degree of finish or workmanship, in which case the standard shall be the higher standard. All material shall be installed in a true and straight alignment, level and plumb; patterns shall be uniform; and jointing of materials shall be flush and level, unless otherwise directed in writing by the Architect."

The paragraph shall be further amended by adding in the fourth original sentence "unless such maintenance is Contractor’s responsibility)” after "insufficient maintenance"; and adding ”, but such exclusions shall only apply after Owner has taken occupancy of the damaged or defective portion of the Project” after "normal usage".

Add the following at the end of the existing paragraph:

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

62. §3.5.2 shall be added as follows:

"§3.5.2 Contractor shall certify that the Project has been constructed in general conformance with the Architect's or Engineer's plans, specifications, and Construction Documents, as modified from time to time pursuant to the terms of the Contract Documents. Contractor shall fully complete a "Certification of Project Completion" as required by 19 Texas Administrative Code Section 61.1036(c)(3)(F)."

63. §3.5.3 shall be added as follows:

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

64. §3.5.4 shall be added as follows:

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

.1 an affidavit from the manufacturer certifying that the item is in conformance with the applicable standards; or

.2 an affidavit from a testing laboratory certifying that the product has been tested within the past year and is in conformance with the applicable standards; or

.3 such further reasonable proof as is required by the Architect."

65. §3.5.5 shall be added as follows:

"§3.5.5 The Contractor agrees to assign to the Owner at Final Completion of the Work, such assignment to be effective no later than Final Completion, any and all manufacturers' warranties relating to materials and labor used in the Work. Contractor further agrees to perform the Work in such manner so as to preserve any and all such manufacturers' warranties. All forms will be required to be submitted prior to Final Payment."
manufacturers of such systems and equipment whereby Owner shall have a direct right, but not a duty, of enforcement of such warranty obligations."

67. §3.5.7 shall be added as follows:

"§3.5.7 Contractor shall maintain a complete and accurate schedule of the date(s) of Substantial Completion, the date(s) of Final Completion, and the dates upon which the warranty under section 12.2.2.1 herein on each phase or building will expire. Contractor shall provide a copy of such schedules to Owner and Architect. Prior to termination of the warranty period under Section 12.2.2.1 herein, Contractor shall accompany Owner and Architect on re-inspection of each Work in the Project and Contractor shall be responsible for correcting any warranty items which are observed or reported during the warranty period under Section 12.2.2.1 herein. Contractor shall prosecute such warranty work under Section 12.2.2.1 herein without interruption until accepted by Owner and Architect, even though such work should extend beyond the warranty period under Section 12.2.2.1 herein. If Contractor fails to provide the schedules to Owner and Architect, Contractor’s warranty obligation described herein shall continue until such inspection is conducted and deficiencies are corrected."

68. §3.5.8 shall be added as follows:

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

.1 Obtain duplicate original warranties, executed by all subcontractors, making the dates of beginning of the warranties the Date of Final Completion; and the warranties of suppliers and manufacturers, making the dates of beginning of the warranties no later than the Date of Final Completion;

.2 Verify that the documents are in proper form and contain full information;

.3 Co-sign warranties when required;

.4 Bind all warranties in commercial quality 8-1/2 X 11 inch three-ring binder, with hardback, cleanable, plastic covers;

.5 Label the cover of each binder with a typed or printed title labeled "WARRANTIES", along with the title of the Project; name, address and telephone number of Contractor; and name of its responsible principal;

.6 Include a Table of Contents, with each item identified by the number and title of the specification section under which the product is specified; and

.7 Separate each warranty with index tab sheets keyed to the Table of Contents listing.

.8 Deliver warranties and bonds in the form described above, to the Architect
who will review same prior to submission to the Owner."

69. §3.6 shall be deleted and replaced with the following paragraph:

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

70. §3.7.1 shall be deleted and replaced with the following paragraph:

"The Contractor shall be responsible for making and submitting application for the building permit. The Owner shall pay the municipality directly for the building permit and all other development "impact" fees, if any. The Contractor shall continue to be responsible for payment of other permits, governmental fees, licenses, and inspections necessary for proper execution of the Contract and which are legally required when bids or proposals are received. Such fees and expenses shall only be reimbursable to Contractor if expressly agreed to herein."

71. §3.7.1.1 shall be added as follows:

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

72. §3.7.1.2 shall be added as follows:

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

73. §3.7.2 shall be amended by adding the following at the end of the existing paragraph:

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

74. §3.7.3 shall be amended by replacing "knowing" with "when Contractor knows or reasonably should have known" in the first line of the paragraph; and adding "the Contract Documents," after "regulations" in the second line of the paragraph.

75. §3.7.4 shall be amended by replacing "21" with "three (3) business" in the sixth line of the first sentence; adding "Contractor agrees that this is a reasonable notice requirements" as the new second sentence.

Replacing the remainder of the original paragraph beginning with "if the Architect determines" with the following:

"report findings and a recommended resolution in writing to Owner and Contractor. If Owner's Board of Trustees and Contractor cannot agree on an equitable adjustment to the Contract Sum or Contract time, then either party may pursue alternative dispute resolution as provided for in Article 15 within ninety (90) days of the Architect's recommendation."

76. §3.7.5 shall be amended by adding "in writing" after "Owner and Architect" at the end of the first sentence.
§3.7.6 shall be added as follows:

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

§3.8.1 shall be amended by adding the following before the final period of the original sentence ", unless required to do so by the terms of the construction Documents."

§3.8.2 shall be amended by:

.1 Deleting "and all required taxes"; and

.3 Adding after "Contract Sum" in the first sentence, ", or the Owner’s Contingency, at Owner’s discretion," and deleting "by change Order" in the first sentence. In the second sentence, replace "Change Order" with "adjustment".

§3.8.4 shall be added as follows:

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

§3.9.1 shall be amended by adding "at all times" in the first sentence after "Project site" and adding a new second sentence as follows: "In addition, the Contractor may employ a project manager and necessary assistants who may supervise several Project sites."

At the end of the existing paragraph add the following:

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

82. §3.9.2 shall be deleted and replaced with the following:

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

83. §3.9.3 shall be deleted and replaced with the following:

"Contractor's project manager, while not required to be present full-time at the site, shall remain assigned to this Work, and be available on an as-needed basis throughout the course of the Work until items requiring completion or correction, identified at Substantial Completion pursuant to Section 9.8, have been completed or corrected in accordance with the Construction Documents."

84. §3.9.4 shall be added as follows:

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

85. §3.9.5 shall be added as follows:

"§3.9.5 Questions about plan interpretation or directions shall be submitted by Contractor's superintendent to the Architect in the form of a written request for information and the Architect shall respond to such request for information in a reasonable and timely fashion."

86. §3.10.1 shall be amended by adding the following sentence at the end of the existing paragraph: "The schedule shall not interfere with the operation of Owner's existing facilities and operations without Owner's prior written approval."
87. §3.10.3 shall be amended by deleting "general".

88. §3.10.4 shall be added as follows:

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

89. §3.11.1 shall be amended by adding "§3.11.1" to the original paragraph; adding "field test records, inspection certificates or records, manufactures' certificates," after "Shop Drawings,"; and adding "and the Owner at all times" in the second sentence after the first "Architect".

90. §3.11.2 shall be added as follows:

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

91. §3.12.4 shall be amended by deleting "the information given and the design concept expressed in" in the first sentence.

92. §3.12.6 shall be amended by replacing "coordinated" with "verified that" and adding "complies" after "submittals" in the same line. The following sentence shall be added at the end of the original paragraph: "Specific dimensions, quantities, installation and performance of equipment and systems in compliance with the Construction Documents and the Contract Documents remain the Contractor’s responsibility."
§3.12.8 shall be amended by adding the following before the final period of the existing paragraph: “, except for any such errors or omissions which are within Architect's statutory or contractual design responsibility.”

§3.12.10 shall be amended by deleting the following in the fifth sentence: "provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy."

The following shall be added at the beginning of the seventh sentence in the paragraph: "Unless the Contractor is providing professional services as allowed herein,”; and changing the word "The" to "the".

The following shall be added at the end of the existing paragraph:

"A registered architect must prepare plans and specifications for all the Work, as governed by the Texas Occupations Code Chapter 1051; and a registered engineer must prepare plans, specifications and estimates for all Work governed by Texas Occupations Code Chapter 1001. In the event that Contractor retains a licensed design professional under the terms of this paragraph, Contractor shall require that the licensed design professional carry comprehensive general liability and errors and omissions insurance coverage in the same amounts and forms as required of the Architect on this Project. In the event that the licensed design professional retained by the Contractor will be conducting on-site services or observations, the licensed design professional shall also carry worker's compensation insurance and comprehensive automobile liability in the same amounts and forms as required of the Architect on this Project."

§3.12.11 shall be added as follows:

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

§3.12.12 shall be added as follows:

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

97. §3.12.13 shall be added as follows:

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

98. §3.12.14 shall be added as follows:

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

99. §3.13 shall be amended by adding "§3.13.1" at the beginning of the original paragraph.

100. §3.13.2 shall be added as follows:

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

101. §3.13.3 shall be added as follows:

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

102. §3.13.4 shall be added as follows:

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

103. §3.13.5 shall be added as follows:

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

104. §3.14.1 shall be amended by adding, between the word "properly," and the period at the end of the first sentence: ", provided, however, that any such cutting, fitting or patching can only be performed if the cutting, fitting or patching results in Work that is in accordance with the Construction Documents and Contract Documents."

105. §3.14.3 shall be added as follows:

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

106. §3.15.1 shall be amended by adding ", on a daily basis," after "Contractor" in the first line of the first sentence.

The following shall be added after the first sentence: "Contractor shall provide on-site containers for the collection of waste materials, debris and rubbish, and shall periodically remove waste materials, debris and rubbish from the Work and dispose of all such materials at legal disposal areas away from the site. All cleaning operations shall be scheduled so as to ensure that contaminants resulting from the cleaning process will not fall on newly-coated or newly-painted surfaces."

Add the following at the end of the existing paragraph:

"Immediately after unpacking materials, all packing case lumber or other packing materials, wrapping or other like flammable waste shall be collected and removed from the building and premises. Care shall be taken by all workers not to mark, soil, or otherwise deface any finish. In the event that any finish becomes defaced in any way by mechanics or workers, the Contractor or any of his Subcontractors shall clean and restore such surfaces to their original condition."

107. §3.15.3 shall be added as follows:

"§3.15.3 The Contractor shall be responsible for the protection of the Work. Prior to the Architect's inspection for Substantial Completion, the Contractor shall clean exterior and
interior surfaces exposed to view; remove temporary labels, stains, putty, soil, paint and foreign substances from all surfaces, including glass and painted surfaces; polish transparent and glossy surfaces; clean equipment and fixtures to a sanitary condition; replace air filters in mechanical equipment; clean roofs, gutters, and downspouts; remove obstructions and flush debris from drainage systems; clean site; sweep paved areas and rake clean other surfaces; remove trash and surplus materials from the site; clean and polish all floors; clean and polish all hardware; and repair all Work damaged during cleaning.

§3.15.4 shall be added as follows:

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

§3.16 shall be amended by adding "and their designated representatives", after "Architect", and adding the following sentence at the end of the existing paragraph: "The presence of the Owner, Architect or their representatives does not constitute acceptance or approval of the Work."

§3.17 shall be amended by capitalizing the second sentence; deleting "AND" after "PATENT RIGHTS", and adding "WAIVE AND RELEASE CLAIMS AGAINST THE OWNER AND ARCHITECT, AND SHALL INDEMNIFY AND" after "SHALL" in the second line of the original paragraph.

Insert "HARMLESS" between "HOLD" and "THE" in the third line of the original paragraph.

Delete "harmless" in the fourth line of the original paragraph and add "PROVIDED, HOWEVER, CONTRACTOR" after "THEREOF" in the same line.

Delete "but" in the fifth line of the original paragraph, and add "TO ARCHITECT" after "RESPONSIBLE" in the same line.

Delete "Owner or" in the ninth line of the original paragraph and add ", AND SHALL NOT BE RESPONSIBLE TO OWNER IF OWNER REQUIRES A PARTICULAR DESIGN,
PROCESS OR PRODUCT THAT CONSTITUTES A COPYRIGHT VIOLATION" after "ARCHITECT" in the same line.

In the last sentence of the paragraph add "Owner and" before "Architect" and "in writing" after "Architect."

111. §3.18.1 shall be deleted and replaced with the following:

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

112. §3.18.2 shall be deleted and replaced with the following:

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

113. §3.18.3 shall be added as follows:

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

114. §3.18.4 shall be added as follows:

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

115. §3.18.5 shall be added as follows

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

116. §3.19 shall be added as follows:

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

117. §4.1.2 shall be amended by putting a period after "Owner" and deleting "Contractor and Architect. Consent shall not be unreasonably withheld".

118. §4.1.3 shall be amended by deleting "successor", replacing it with "new", and deleting "as to whom the Contractor has no reasonable objection and".

Add the following at the end of the original paragraph: "Owner shall notify Contractor if a new Architect has been employed by Owner".

119. §4.1.4 shall be added as follows:

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

120. §4.2.1 shall be amended by adding a comma after "construction" in the first sentence; deleting "the date the Architect issues the" in the first sentence; and deleting "Certificate For Payment" after "final" in the first sentence and replacing it with "payment is due, and, with the Owner's concurrence, from time to time during the one-year period for correction of Work described in Section 12.2."

At the end of the second sentence after "Documents" add the following ", unless otherwise modified in writing in accordance with other provisions of the Contract Documents".

121. §4.2.2 shall be deleted and replaced with the following:

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

122. §4.2.3 shall be amended by deleting the first sentence of the paragraph and adding the following at the end of the original paragraph:

"The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by the fault, neglect, or request of the Contractor."

123. §4.2.4 shall be amended by inserting the following after the first sentence: "However, Owner reserves the right to communicate directly with the Contractor and Subcontractors".

124. §4.2.5 shall be amended by adding at the beginning of the paragraph "As further provided in the Contract Documents", and replacing the upper case "B" for a lower cased "b" for the word "based".

125. §4.2.6 shall be amended by replacing "has authority to" with "shall" and adding "Construction Documents" before "Contract Documents" in the first sentence.

Replace "have authority to require" with "recommend to Owner additional" in the second sentence, and replace "Sections 13.5.2 and 13.5.3" with "the provisions of the Contract Documents" in the second sentence.

In the third sentence, add "or the Owner" after the second "Architect".

At the end of the existing paragraph add the following:

"Architect and/or Contractor shall promptly notify, orally and in writing, the other party and Owner of any fault or defect in the Project or nonconformance with Construction
Documents or the Contract Documents they may respectively discover and each, upon discovery of the defect or nonconformance, shall be responsible for notifying the other party and Owner of those corrective actions they respectively take; provided, however, Contractor shall have no duty to notify Owner of discoveries made or actions taken by Architect. Testing or inspections required by this subparagraph shall be conducted subject to the requirements of Chapter 2269 of the Texas Government Code."

126. §4.2.7 shall be amended by deleting "but only", "limited", and "information given and the design concept expressed in" in the first sentence; adding "Construction Documents and the" before "Contract Documents"; and after "Contract Documents", add "and all applicable laws, statutes, codes and requirements applicable to Architect’s design services".

In the second sentence, delete "in accordance" and "the submittal schedule approved by the Architect or, in the absence of an approval submittal schedule"; replace "with" with the word "such" before "reasonable promptness"; and after "reasonable promptness", add "as to cause no delay in the Work or in the activities of the Owner, Contractor, or separate contractors,.".

In the third sentence delete "not"; add "general" before "accuracy"; delete "or performance," and put in a period after "systems."; and add "Construction Documents and the" before "Contract Documents."

At the end of the section add the following new language:

"If any submittal does not comply with the requirements of the Construction Documents or the Contract Documents, then Architect shall require Contractor to come into compliance. The Architect shall promptly report in writing to the Contractor and Owner any errors, inconsistencies and omissions discovered by the Architect in the Shop Drawings, Product Data and Samples."  

127. §4.2.8 shall be deleted and replaced with the following:

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

128. §4.2.11 shall be amended in the first line by deleting "decide matters" and replacing it with
"make recommendations".

129. §4.2.12 shall be amended in the first line by deleting "and decision" and replacing it with
"or recommendations"; deleting in the second sentence of the paragraph "decisions" and
replacing it with "recommendations"; and placing a period after "Contractor" and deleting
all of the remaining language to the end of the paragraph.

130. §4.2.13 shall be amended by replacing "Architect’s" with "Owner’s", replacing "will" with
"shall", and deleting all of the language after the word "final" in the paragraph.

131. §4.2.14 shall be amended by adding "Construction Documents and the" before the words
"Contract Documents", and adding ", at no additional cost to the Owner" before the final
period in the original language.

132. §5.2.1 shall be amended by replacing "may" with shall" in the beginning of the second
sentence, and adding the following language at the end of the existing paragraph:

"All subcontractors shall be procured in accordance with Texas Education Code Chapter
44, Subchapter B, and Texas Government Code Chapter 2269, as applicable. A notice of
no reasonable objection shall in no way relieve the Contractor from full responsibility for
performance and completion of the Work and its obligations under the Contract
Documents. The Contractor shall be fully responsible for the performance of its
subcontractors, including those recommended or approved by the Owner."

133. §5.2.3 shall be amended by deleting "If the proposed but rejected" at the beginning of the
second sentence and replacing it with "When the parties agree on a proposed substitute",
and by deleting "was reasonably capable of performing the Work" after "Subcontractor" in
the second sentence and replacing it with "or if the Owner requires use of a specific
subcontractor, then".

134. §5.2.5 shall be added as follows:
"§5.2.5 Each Contractor or subcontractor shall be required to completely familiarize itself with the plans and specifications, to visit the Work site to completely familiarize itself with existing conditions, and to conduct any other appropriate investigations, inspections or inquiries prior to submission of a bid or proposal. No increases in Contract Sums or Guaranteed Maximum Price shall be allowed for failure to so inspect or investigate."

135. §5.3 shall be amended by adding "§5.3.1" at the beginning of the original paragraph; adding the word "written" after "appropriate"; and deleting "written where legally required for validity".

The following sentence shall be added as the new second sentence: "The terms and conditions of the Contract Documents shall be incorporated by reference into each subcontract agreement, except as provided below."

136. §5.3.1 shall be amended by adding at the end of the existing paragraph the following:

"Each subcontractor shall provide proof of insurance to Contractor consistent with the Contractor’s insurance to Owner and in amount commensurate with the Work to be performed by the Subcontract."

137. §5.3.2 shall be added as follows:

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

138. §5.3.3 shall be added as follows:

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

139. §5.4.1 shall be amended by deleting "a" and replacing it with "any unperformed".

.1 shall be amended by deleting "the Owner for cause pursuant to Section 14.2" and replacing it with "either in accordance with Article 14 or abandonment of the Project by the Contractor.", and deleting "and" at the end of this subsection.

.2 shall be amended by adding "and obligations" after "rights"; adding "s" to the word "bond"; and adding "; and" at the end of the subsection.

.3 shall be added as follows: "The Subcontractor provides bonds as required by law of prime contractors and by Owner."
140. §5.4.2 shall be amended by deleting "Upon a" at the beginning and capitalizing the word "Such"; deleting "if the Work has been suspended for more than 30 days, the Subcontractor’s compensation"; adding after the word "shall" the following: "not constitute a waiver by Owner of its rights against Contractor, including, but not limited to, claims for defaults, delays or defects for which a subcontractor or material vendor may also be liable."; and deleting the remaining portion of the original sentence.

141. §5.4.3 shall be deleted and replaced with the following:

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

142. §5.5 shall be added as follows:

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

143. §6.1.1 shall be amended by deleting the last sentence and replacing it with the following:

"The Owner reserves the right to perform other non-Project-related construction work, maintenance and repair work, and school program operations at the site and near the site during the time period of the Work."

144. §6.1.3 shall be amended by deleting the first two sentences of the existing paragraph and replacing them with the following sentence:

"Contractor shall cooperate with other separate contractors to ensure that the Work remains on schedule."

Add "between the Owner and Contractor" before the period at the end of the second sentence.

145. §6.1.4 shall be deleted in its entirety.
§6.2 shall be amended by deleting "MUTUAL" in the heading and replacing it with "CONTRACTOR’S";

§6.2.1 shall be amended by adding the following at the beginning of the paragraph:

"It shall be the responsibility of the Contractor to assist, review, and coordinate the scheduling of work performed by any of the Owner's separate contractors. In addition, the Contractor shall be responsible for coordinating and providing all construction administration necessary for the Work and the work of any of Owner's separate contractors."

Add "site access and" in the third sentence after the word "reasonable" and add "or staging" after "storage" in the third sentence.

At the end of the existing paragraph add the following:

"Contractor shall be responsible for coordination between Contractor's subcontractors and Owner's separate contractors. Contractor shall review Owner's contract with Owner's separate contractors and become familiar with the requirements and scope of services contained therein."

§6.2.2 shall be amended by adding "in writing" after the word "report" and adding "Owner" after the word "Architect".

After "results", add ", and shall promptly report in writing to the Architect and Owner if Owner's separate contractors fail in any way to timely perform their services or negatively impact Contractor's schedule or ability to perform the Work."

In the second sentence, after "Contractor’s Work", add "and is performed in a timely manner,".

§6.2.3 shall be amended by deleting the last sentence of the paragraph.

§6.2.3.1 shall be added as follows:

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

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

152. §6.2.3.3 shall be added as follows:

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

153. §6.2.4 shall be amended by adding "as amended" before the final period.

154. §6.2.5 shall be amended by adding "as amended" before the final period.

155. §6.3 shall be amended by replacing the word "Architect" with "Owner".

156. §7.1.1 shall be amended by adding the following at the end of the original sentence: "A properly prepared written request for a change in the Work by Contractor shall be accompanied by sufficient supporting data and information to permit the Architect to make a recommendation to Owner."

157. §7.1.3 shall be amended in the first line of the paragraph by adding "Construction Documents and the" before "Contract Documents", and adding the following at the end of the existing paragraph:

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

158. §7.1.4 shall be added as follows:

"§7.1.4 The total Contractor mark-up for overhead, profit or fee for work performed by the Contractor's own forces shall not exceed 10% of the cost of the Change in the Work. The total Contractor mark-up for overhead, profit or fee for supervision of work performed by subcontractors' forces shall not exceed 4% of the cost of the Change in the Work. The total subcontractor mark-up for overhead, profit or fee for work performed by the subcontractor's forces shall not exceed 10% of the cost of the Change in the Work. In no
event shall total mark-up for overhead, profit or fee in any work which involves a subcontractor or one or more sub-subcontractors, regardless of who performs the work, exceed 14% of the total cost of the Change in the Work."

159. §7.1.5 shall be added as follows:

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

160. §7.1.6 shall be added as follows:

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

161. §7.2.1.2 shall be amended by adding "or Guaranteed Maximum Price" after "Contract Sum".

162. §7.2.2 shall be added as follows:

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

163. §7.2.3 shall be added as follows:

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

164. §7.2.4 shall be added as follows:

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

165. §7.3.1 shall be amended to add "or Guaranteed Maximum Price" after each "Contract Sum".

166. §7.3.3 shall be amended as follows:
Insert "or Guaranteed Maximum Price" after "Contract Sum".

.2 Add before the semi-colon: 
"(additional mark-ups for overhead, profit and fees will not be allowed)."

.3 Add before the semi-colon: 
"; subject to the limitations of subparagraph 7.1.4;"

.4 Add before the final period: 
"; subject to the limitations of subparagraph 7.1.4."

167. §7.3.4 shall be amended by deleting "shall" and replacing it with "may, by mutual written agreement,"

168. §7.3.5 shall be amended by inserting "or Guaranteed Maximum Price" after "Contract Sum".

169. §7.3.6 shall be amended by inserting "or Guaranteed Maximum Price" after "Contract Sum" in the first sentence.

170. §7.3.7 shall be amended by inserting "or Guaranteed Maximum Price" after "Contract Sum," and adding in the first line of the paragraph, the following language: "then the adjustment shall be determined by the Architect on the basis of the amount by which the Contractor's direct costs have actually been increased over the direct cost of performing the Work without the Change in the Work. Direct costs shall be limited to the following:", and deleting the remaining portion of the language in the paragraph before subsection .1.

.1 shall be amended by adding "Actual" at the beginning of the sentence, and replacing "Costs" with "costs"; deleting "old age and"; and deleting "fringe benefits required by agreement or custom".

.2 shall be amended by adding "Actual" at the beginning of the sentence; replacing "Costs" with "costs"; and deleting "whether incorporated or consumed" and replacing it with "used in performing the Change in the Work".

.3 shall be amended by adding "Actual" at the beginning of the sentence; replacing "Rental" with "rental"; adding "rented from third parties" after "equipment"; deleting "whether rented from the Contractor or others"; and adding "and" at the end of the subparagraph.

.4 shall be amended by adding "Actual" at the beginning of the sentence; replacing "Costs" with "costs"; adding "and before "permit fees"; deleting "and sales, use or similar taxes"; putting a period after "Work", and deleting "and" at the end of the subparagraph.

.5 shall be deleted in its entirety.
The following sentence shall be added at the end of the existing section:

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

171. §7.3.8 shall be amended by adding in the first sentence after "net cost" the following: "plus the Contractor’s allocated percent of profit and overhead"; and deleting the last sentence of the paragraph.

172. §7.3.9 shall be deleted in its entirety.

173. §7.4.1 shall be amended by adding at the beginning of the paragraph "With prior written notice to the Owner’s representative"; changing "The" to "the"; inserting "or Guaranteed Maximum Price" after "Contract Sum"; deleting "the intent of"; adding "Construction Documents and the" before "Contact Documents"; and adding the following at the end of the existing paragraph: "The Contractor shall carry out such written orders promptly. Minor changes in the Work shall not include changes that involve the outward appearance of the structure, color schemes, floor plans, building materials, landscaping, or mechanical equipment."

174. §7.4.2 shall be added as follows:

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

175. §8.1.1 shall be amended by replacing "Substantial" with "Final".

176. §8.1.2 shall be amended by deleting "date established in the Agreement" and replacing it with the following language:

"first business day after Contractor's receipt of the written Notice to Proceed. The Notice to Proceed shall not be issued by Architect until the Agreement (or Amendment Number 1, if Contractor is a Construction Manager at Risk) has been signed by the Contractor, approved by Owner's Board of Trustees, signed by the Owner's authorized representative, and Owner and Architect have received, and approved as to form, all required payment and performance bonds and insurance, in compliance with Article 11. Issuance of the notice to proceed shall not relieve the Contractor of his responsibility to comply with Article 11."

177. §8.1.3 shall be amended by adding the following at the end of the existing section:
"The date of Final Completion is the date certified by the Architect in accordance with Paragraph 9.10. Unless otherwise agreed in writing by Owner, Contractor agrees that Final Completion shall occur not more than 30 days after the date of Substantial Completion."

178. §8.2.1 shall be amended by deleting "confirms" and replacing it with "stipulates".

179. §8.2.2 shall be amended by deleting the last sentence of this section.

180. §8.2.3 shall be amended by replacing "Substantial" with "Final".

181. §8.2.4 shall be added as follows:

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

182. §8.3.1 shall be amended by deleting "labor disputes,"; adding "governmental actions," after "fire,"; deleting "unusual delay in deliveries; unavoidable casualties or other causes beyond the Contractor’s control;"; adding "in writing" after "authorized"; deleting "pending mediation and arbitration"; replacing "that" with "which"; adding "and Owner" between "Architect" and "determines"; replacing "shall" with "may"; and adding "and Owner" after "Architect" in the last line of the section.

183. §8.3.2 shall be amended by adding ", as amended" before the period.

184. §8.3.3 shall be deleted and replaced with the following:

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

185. §9.1.1 shall be amended by adding the following sentence at the end of the existing section.

"In the event that the Project is a Construction Management at Risk Project, the Contract Sum shall not exceed the Guaranteed Maximum Price."

186. §9.2.1 shall be amended by adding after "Application for Payment," the following: "or in the case of a Guaranteed Maximum Price, within 15 days after establishing the Guaranteed Maximum Price."

Adding "or Owner" after "Architect" in the second sentence.

At the end of the existing paragraph adding the following:
"The schedule of values shall be prepared in such a manner that each major item of work, whether done by Contractor's own forces or subcontracted, is shown as a single line item on AIA Documents G702 and G703, Application and Certificate for Payment. If the Contractor is a Construction Manager at Risk, then the Contractor's fee and general conditions shall be specifically shown, and AIA Documents G702Cmc and G703 shall be used."

187. §9.2.2 shall be added as follows:

"§9.2.2 In order to facilitate the review of Applications for Payment, the Schedule of Values shall be submitted on AIA Documents G702 and G703, and shall include the following:

.1 Contractor's cost for Contractor's fee (if applicable) bonds and insurance, mobilization, general conditions, etc. shall be listed as individual line items.

.2 Contractor's costs for various construction items shall be detailed. For example, concrete work shall be subdivided into footings, grade beams, floor slabs, paving, etc.

.3 On major subcontracts, such as mechanical, electrical and plumbing, the schedule shall indicate line items and amounts in detail (for example: underground, major equipment, fixtures, installation fixtures, start-up, etc.).

.4 Costs for subcontract work shall be listed without any additional mark-up of Contractor's costs for overhead, profit or supervision.

.5 If payment for stored materials is requested prior to installation, then material and labor shall be listed as separate line items.

.6 Contractor shall provide a report of actual versus projected reimbursable expenses (general conditions), updated monthly.

188. §9.3.1 shall be amended by deleting at the end of the paragraph "if provided for in the Contract Documents".

189. §9.3.1.1 shall be deleted and replaced with the following:

"Contractor agrees that, for purposes of Texas Government Code Sections 2251.021 and 2251.042, receipt of the Application for Payment by the Architect shall not be construed as receipt of an invoice by the Owner. Contractor further agrees that Owner's receipt of the Certificate for Payment shall be construed as receipt of an invoice by the Owner, for purposes of Texas Government Code Sections 2251.021 and 2251.042."
§9.3.1.2 shall be amended by replacing "does not intend to pay a" with "has not been invoiced by a"; and by replacing "such Work has been performed by others whom the Contractor intends to pay" with "Contractor has self-performed the Work".

§9.3.1.3 shall be added as follows:

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

§9.3.2 shall be deleted and replaced with the following:

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

.1 The location must be agreed to, in writing, by the Owner and Surety.

.2 The location must be a bonded warehouse.

.3 The Contractor's Surety must agree, in writing, to the amounts included in each Application for Payment.

.4 The Contractor must bear the cost of the Owner's and Architect's expenses related to visiting the off-site storage area and reviewing the stored contents. Contractor acknowledges that Architect's time is an additional service and shall compensate Architect directly for same.

.5 Payment shall not include any charges for overhead or profit on stored materials.

.6 Payments for materials or equipment stored on or off the site shall be conditioned upon submission by the Contractor of bills of sale or such other procedures satisfactory to the Owner to establish the Owner's title to such materials or equipment or otherwise protect the Owner's interest, including applicable insurance (naming the Owner as insured and naming the specific materials or equipment stored and their location) and transportation to the site for those materials and equipment stored off the site. Under no circumstances will the Owner reimburse the Contractor for down payments, deposits, or other advance payments for materials or equipment until the materials or equipment are delivered to Owner's site. Failure to follow these procedures shall result in nonpayment for storage of or
insurance on stored materials and equipment. Failure to follow these procedures shall also result in nonpayment of materials and equipment until said materials and equipment are incorporated into the Work."

193. §9.3.3 shall be amended by adding the following at the end of the existing paragraph:

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

194. §9.3.4 shall be added as follows:

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

195. §9.3.5 shall be added as follows:

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

196. §9.4.1 shall be amended by deleting the word "either" and replacing it with "return the Payment Application to the Contractor as provided in Section 9.3.4; certify, sign and"; and adding the following sentence at the end of the existing paragraph: "Architect's written reasons for withholding certification shall be construed as the notice required by Texas Government Code Section 2251.042 et seq."

197. §9.4.2 shall be amended by deleting ", based on the Architect’s evaluation of the Work and the data comprising the Application for Payment"; after the word "that", adding the following: "the Architect has observed the progress of the Work; determined that"; deleting "to the best of the Architect’s knowledge, information and belief"; after "point indicated", adding ", in the Architect’s professional opinion"; deleting "and" and replacing it with "determined"; adding "Construction Documents and the" before "Contract Documents"; after "Contract Documents" adding: "; and critically evaluated and certified that the amounts requested in the Application for Payment are valid and correct, in the Architect's professional opinion."

In the second sentence, add "Construction Documents and the" in each place before "Contract Documents"; and after "Architect" add "in writing to the Owner".

In item (3) in the existing paragraph, insert "unless" after "data".

At the end of the existing paragraph, add the following sentence: "Examinations, audits and verifications, if required by the Owner, will be performed by the Owner's accountants or other representatives of the Owner acting in the sole interest of the Owner."

198. §9.4.3 shall be added as follows:

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

199. §9.5.1.6 shall be amended by deleting "or".

200. §9.5.1.7 shall be amended by replacing the period with a semi-colon and adding "or" after it.

201. §9.5.1.8 shall be added as follows:

".8 failure to submit a written plan indicating action by the Contractor to regain the time schedule for completion of Work within the Contract time."
202. §9.5.3 shall be deleted and replaced with the following:

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

203. §9.6.1 shall be amended by adding "for undisputed amounts" after "payment" and adding the following at the end of the existing section; and removing “or Contractor’s Payment Application” from this section:

"Owner shall notify Contractor within 21 days if Owner disputes the Architect's Certificate for Payment or Contractor’s Payment Application, pursuant to Texas Government Code Section 2251.042 et seq, listing the specific reasons for nonpayment. Payments to the Contractor shall not be construed as releasing the Contractor or his Surety from any obligations under the Contract Documents or Construction Documents."

204. §9.6.2 shall be amended by adding the following at the end of the existing paragraph.

"In compliance with Texas Government Code Section 2251.022, the Contractor shall, within ten (10) days following receipt of payment from the Owner, pay all bills for labor and materials performed and furnished by others in connection with the Work, and shall, if requested, provide the Owner with evidence of such payment. Contractor shall include a provision in each of its subcontracts imposing the same payment obligations on its Subcontractors as are applicable to the Contractor hereunder, and if the Owner so requests, shall provide copies of such Subcontractor payments to the Owner. If the Contractor has failed to make payment promptly to the Contractor's Subcontractors or for materials or labor used in the Work for which the Owner has made payment to the Contractor, then the Owner shall be entitled to withhold payment to the Contractor in part or in whole to the extent necessary to protect the Owner. This Section is subject to the provisions of Texas Business and Commerce Code Chapter 56."

205. §9.6.4 shall be amended by placing a period after "Subcontractor"; deleting ", except as may otherwise required by law,"; and adding the following at the end of the paragraph: 

"Action on the part of the Owner to require Contractor to pay a Subcontractor shall not impose any liability on Owner."

206. §9.6.7 shall be deleted in its entirety and replaced with the following:

"Payments received by the Contractor from the Owner for Work properly performed by Subcontractors, or materials properly provided by suppliers, shall be held in trust by the Contractor for the benefit of those Subcontractors or suppliers who performed Work or
furnished materials, or both, under contract with the Contractor. Texas Property Code §162.001."

207. §9.6.8 shall be added as follows:

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

208. §9.7.1 shall be amended by deleting the first sentence up through "Payment, or" and replacing it with "Pursuant to Texas Government Code Section 3251.051,"; adding after "Contractor" "any payment certified by the Architect, which is undisputed, due and owing"; deleting "within seven days"; after "date", inserting "the payment is due under the Contract Documents,"; deleting "established in the Contract Documents the amount certified by the Architect or awarded by binding dispute resolution"; after "Contractor", adding ", upon ten (10)"; deleting "may, upon seven"; after "Architect", adding "that payment has not been made and the Contractor intends to suspend performance for nonpayment, may"; adding "undisputed" after "payment of the"; and deleting the last sentence in the paragraph and replacing it with the following:

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

209. §9.7.2 shall be added as follows:

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

210. §9.7.3 shall be added as follows:

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

.1 deduct an amount equal to that which the Owner is entitled from any payment then or thereafter due to Contractor from the Owner, or

.2 issue a written notice to the Contractor reducing the Contract Sum by an amount equal to that which the Owner is entitled."

211. §9.8.1 shall be amended by adding "and the Construction Documents" after "Contract Documents"; replacing the original period with a semi-colon; and adding the following at the end of the existing paragraph:

"all Project systems included in the Work or designated portion thereof have been successfully tested and are fully operational; all required governmental inspections and certifications required of the Work have been made, approved and posted; designated initial instruction of Owner's personnel in the operation of Project systems has been completed; and all the required finishes set out in the Construction Documents are in place. The only remaining Work shall be minor in nature so that the Owner can occupy the Work or the applicable portion of the Work for all of its intended purposes on that date; and the completion of the Work by the Contractor will not materially interfere with or hamper Owner's normal school operations or other intended use. As a further condition of a determination of Substantial Completion, the Contractor shall certify that all remaining Work shall be completed within 30 days. Contractor shall complete Owner’s Substantial Completion Certificate."

212. §9.8.2 shall be amended by adding the following before the period in the second sentence:

"and the Construction Documents."

213. §9.8.3 shall be amended by adding "Construction Documents or the" before "Contact Documents";

After "intended use," adding "then the Architect shall so notify the Contractor and Owner in writing, and"; and

At the end of the existing paragraph adding the following language:

"Except with the consent of the Owner, the Architect shall perform no more than five inspections to determine whether the Work or a designated portion thereof has attained Substantial Completion in accordance with the Contract Documents. The Owner shall be
entitled to reimbursement from the Contractor for amounts paid to the Architect for any additional inspections."

214. §9.8.4 shall be amended by adding ", sign and issue Owner’s" after "will prepare"; deleting "a" before "Certificate"; deleting the first "Substantial" in the second sentence and replacing it with "Final"; and deleting all of the language beginning with "thereof unless" to the end of the paragraph.

215. §9.8.5 shall be amended by deleting the second sentence in its entirety.

216. §9.9.1 shall be amended by deleting "at any stage when such portion is designated by separated agreement with the Contractor"; replacing "11.3.1.5" with "11.4.5" in the first sentence; in the second sentence adding "that" after "provided"; deleting "and Contractor have" after "Owner"; changing "accepted" to "accepts"; replacing "assigned to each of them for payments, retainage, if any" with "for"; adding "resulting from such occupancy, use or installation" after "Work"; adding "property and liability" before "insurance" and deleting the remaining portion of the sentence after "insurance"; and deleting the fourth sentence. At the end of the existing paragraph adding the following sentence: "Contractor agrees that the Owner may place and install as much equipment and furnishings as is possible before completion or partial completion of portions of the Work."

217. §9.9.2 shall be amended by adding a comma after "occupancy", deleting "or" after "occupancy", and inserting "or installation" after "use".

218. §9.9.3 shall be amended by inserting "in writing" after "upon"; inserting "or installation of furnishings and equipment" after the first "Work"; and inserting ", nor shall it constitute evidence of Substantial Completion or Final Completion" before the period.

219. §9.9.4 shall be added as follows:

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

220. §9.10.1 shall be amended by adding "prepare, sign, and" after the word "promptly"; after "issue", adding "Owner’s Certificate of Final Completion and"; deleting "stating that to the best of the Architect’s knowledge, information and belief, and" and replacing it with "certifying to the Owner that,"; inserting "the Construction Documents and" after "Contract Documents and"; and inserting ", including all retainages" after "entire balance". At the end of the existing paragraph adding the following: "Final payment shall be made by the Owner in accordance with Owner’s regular schedule for payments.".
221. §9.10.2 shall be amended in the second line by adding "using AIA Document G706," after "(1)"; deleting "a certificate evidencing" and replacing it with "evidence satisfactory to Owner"; inserting after (4) "using AIA Document G707,"; after "(5)" deleting "if required by the Owner" and replacing it with "except for amounts currently withheld by Owner,"; after "such as", inserting "AIA Document G706A. notarized subcontractor’s liens release."  Add the following at the end of the existing paragraph:

"In addition, the following items must be completed and received by the Owner before Final Payment will be due:

.1 Written certifications required by Section 10.5, 10.6, and 10.7
.2 Final list of subcontractors (AIA Document G705);
.3 Contractor's certification in Texas Education Agency’s Certification of Project Compliance, located at http://ritten.tea.state.tx.us/school.finance/facilities/cert_2004.pdf;
.4 Contractor’s warranties, organized as required elsewhere in the Contract Documents;
.5 Maintenance and Instruction Manuals; and
.6 Owner’s Final Completion Certificate; and
.7 Record drawings and "as built" drawings. At the completion of the Project, the Contractor shall submit one complete set of "as built" drawings, with all changes made during construction, including concealed mechanical, electrical and plumbing items. The Contractor shall submit these as electronic, sepia, or other acceptable medium, in the discretion of the Owner. The "as-built" record drawings shall delete the seal of the Architect and/or the Engineer and any reference to those firms providing professional services to the Owner, except for historical or reference purposes.

Documents identified as affidavits must be notarized. All manuals will contain an index listing the information submitted. The index section will be divided and identified by tabbing each section as listed in the index. Upon request, the Architect will furnish the Contractor with blank copies of the forms listed above. Final payment shall be paid by the Owner to the Contractor within thirty (30) days after Owner's Board of Trustees has voted to accept the Work and approve Final Payment."

222. §9.10.3 shall be amended in the last line of the paragraph by deleting "except that" and replacing it with "and".
§9.10.4 shall be amended by inserting "not" after "shall"; inserting "any" before "Claims"; putting a period after "Owner"; and deleting the remainder of the original paragraph.

§9.10.5 shall be amended by replacing "made in writing" with "asserted pursuant to Article 15".

§10.1 shall be amended by inserting the following after "Contract":

"and shall conform to all provisions of the "Manual of Accident Prevention in Construction", published by the Associated General Contractors of America, Inc., latest edition and the Contractor further agrees to fully comply with all safety standards required by the Occupational Safety and Health Administration ("OSHA") 29 USC Section 651 et seq., and all amendments thereto. However, the Contractor's duties herein shall not relieve any Sub-contractor or any other person or entity, including any person or entity required to comply with all applicable federal, state and local laws, rules, regulations, and ordinances, from the obligation to provide for the safety of their employees, persons and property and their requirements to maintain a work environment free of recognized hazards."

§10.1.2 shall be added as follows:

"§10.1.2 Contractor's employees, agents, Sub-contractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them maybe liable, shall not perform any service for Owner while under the influence of any amount of alcohol or any controlled substance, or use, possess, distribute, or sell alcoholic beverages while on Owner's premises. No person shall use, possess, distribute, or sell illicit or unprescribed controlled drugs or drug paraphernalia; misuse legitimate prescription drugs; or act in contravention of warnings on medications while performing the Work or on Owner's premises."

§10.1.3 shall be added as follows:

"§10.1.3 Contractor has adopted or will adopt its own policy to assure a drug-free and alcohol-free workplace while on Owner's premises or performing the Work. Contractor will remove any of its employees, agents, sub-contractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, from performing the Work any time there is suspicion of alcohol and/or drug use, possession, or impairment involving such person, and at any time an incident occurs where drug or alcohol use could have been a contributing factor. Owner has the right to require Contractor to remove any person from performing the Work any time cause exists to suspect alcohol or drug use. In such cases, the person so removed may only be considered for return to work after the Contractor certifies as a result of a for-cause test, conducted immediately following removal, that said person was in compliance with this Contract. Contractor will not use any person to perform the Work who fails or refuses to take, or tests positive on, any for-cause alcohol or drug test."
228. §10.1.4 shall be added as follows:

"§10.1.4 Contractor will comply with all applicable federal, state, and local drug and alcohol-related laws and regulations (e.g., Department of Transportation regulations, Drug-Free Workplace Act). Owner has also banned the presence of all weapons on the Project site, whether or not the owner thereof has a permit for a concealed weapon, and Contractor agrees that Contractor's representatives, employees, agents, and sub-contractors will abide by same."

229. §10.2.1.1 shall be amended by adding, after "Work", the following ", school personnel, students, and other persons on Owner’s premises", and after "thereby", adding ", including the installation of fencing between the Work site and the occupied portion of a connecting or adjacent educational facility;"

230 §10.2.1.3 shall be amended by adding "other buildings, and their contents, fencing" after "such as"; and adding "athletic fields, facilities and tracks" after "walks".

231. §10.2.3 shall be amended by adding "installing fencing," after "including" and, at the end of the paragraph, adding the following:

"The Contractor shall also be responsible, at the Contractor's sole cost and expense, for all measures necessary to protect any property adjacent to the Project and improvements therein. Any damage to such property or improvements shall be promptly repaired by the Contractor. Contractor shall provide reasonable full protection safeguards and provide approved fall protection safety equipment for use by all exposed Contractor employees."

232. §10.2.4 shall be amended by deleting "explosives or other", and adding the following before the final period:

", and shall only conduct such activities after giving reasonable advance written notice of the presence or use of such materials, equipment or methods to Owner and Architect. The storage of explosives on Owner's property is prohibited. The use of explosive materials on Owner's property is prohibited unless expressly approved in advance in writing by Owner and Architect."

233. §10.2.5 shall be deleting and replaced with the following language:

"The Contractor shall promptly remedy damage and loss to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The foregoing obligations of the Contractor are in addition to the obligations under Paragraph 3.18."

234. §10.2.7 shall be amended by adding "load or" before "permit".
235. A new §10.2.8 shall be added as follows:

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

236. §10.2.9 shall be added as follows:

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

237. §10.2.10 shall be added as follows:

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

238. The original §10.2.8 shall be renumbered to "§10.2.11" and "to the Contact" shall be inserted after "party" in the first sentence. "Provided, however, Contractor understands that, under Texas law, Owner has tort immunity" shall be added at the end of the existing paragraph.

239. §10.3.1 shall be amended by adding the following at the end of the existing paragraph:

"Contractor encounters polychlorinated biphenyl (PCB), and the specifications require the PCB's removal, the Contractor shall remove the PCB and store it in marked containers at the jobsite provided by the Owner. If PCBs are found which are leaking, then Contractor shall stop work on the affected fixture and shall contact Owner for removal and disposal of the leaking PCBs."

240. §10.3.2 shall be amended by deleting the last sentence and replacing it with the following:

"The Contractor may be entitled to an equitable adjustment regarding the Date of Substantial Completion and/or Final Completion."

241. §10.3.3 shall be deleted and replaced with the following language:

"IF CONTRACTOR IMPORTS HAZARDOUS MATERIALS ONTO THE PROJECT SITE, THEN CONTRACTOR HEREBY INDEMNIFIES AND HOLDS HARMLESS THE OWNER, ITS CONSULTANTS, TRUSTEES, OFFICERS, AGENTS AND EMPLOYEES, AGAINST ANY CLAIMS ARISING OUT OF OR RELATED TO SUCH IMPORTATION, INCLUDING BUT NOT LIMITED TO COSTS AND EXPENSES THE OWNER INCURS FOR REMEDIATION OF A MATERIAL OR SUBSTANCE
THE CONTRACTOR BRINGS TO THE SITE, AS PROVIDED FOR IN SUBPARAGRAPH 3.18."

242. §10.3.4 shall be amended by deleting "unless such materials or substances are required by the Contract Documents".

243. §10.3.5 shall be deleted in its entirety.

244. §10.3.6 shall be deleted in its entirety.

245. §10.4 shall be amended by adding "§10.4.1" to the beginning of the original paragraph and by deleting the last sentence of the paragraph.

246. §10.4.2 shall be added as follows:

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

247. §10.5 shall be added as follows:

"§10.5 ASBESTOS OR ASBESTOS-CONTAINING MATERIALS

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

248. §10.5.2 shall be added as follows:

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

249. §10.6 shall be added as follows:

"§10.6 LEAD-FREE MATERIAL IN POTABLE WATER SYSTEM"
§10.6.1 Prior to payment of retainage and final payment, the Contractor and each subcontractor involved with the potable water system shall furnish a written certification that the potable water system is "lead-free".

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

250. §10.7 shall be added as follows:

"§10.7 HAZARDOUS MATERIALS CERTIFICATION

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

251. Article 11 shall be amended by adding the following at the beginning of the section:

"ARTICLE 11 INSURANCE AND BONDS

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

§11.0.2 Satisfactory evidence of insurance required by this Article shall be provided to Owner and Architect not later than five business days after execution of the Contract by Owner. Satisfactory evidence shall include copies of all required insurance policies, declarations, and endorsements themselves. In addition, Contractor shall also provide a duly-executed ACORD Form 25 Certificate of Liability Insurance naming Owner as a
The Contractor shall furnish Owner all insurance amendments, renewals, notices, cancellations and additional endorsements, as they are provided to Contractor.

§11.0.3 All insurance required herein shall be obtained from a company licensed to do business in the State of Texas by the Texas Department of Insurance, and shall be underwritten by a company rated not less than A VII in A.M. Best's Key Rating Guide, Property-Casualty, according to the latest posted ratings available on A.M. Best's website, www.ambest.com, and that permits waivers of subrogation.

§11.0.4 All insurance required herein shall name the Owner, its officers, employees, representatives or agents, as an additional insured, except Contractor's Worker's Compensation insurance.

§11.0.5 All insurance required herein shall be, by endorsement, primary insurance with respect to the Owner, its officers, employees, representatives or agents. All insurance shall be written on an occurrence basis, if available, and shall contain a waiver of subrogation in favor of Owner on all claims arising out of the Project. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, or did not pay the insurance premium directly or indirectly; and whether or not the person or entity had an insurable interest in the property damaged.

§ 11.0.6 Any failure of Contractor to comply with the reporting provisions of the policies shall not affect the coverage provided to the Owner, its officers, employees, representatives or agents.

§11.0.7 All workers on the Project must be covered by the required insurance policies of the Contractor or a Subcontractor.

§11.0.8 Nothing contained in this Article shall limit or waive Contractor's legal or contractual responsibilities to Owner or others."

252. §11.1.1 shall be amended by deleting the original opening paragraph and replacing it with the following:

"The Contractor and the Contractor's Subcontractors shall purchase and maintain such insurance as will protect them and the Owner from claims which may arise out of, or result from, the Contractor's operations under the Contract whether such operations be by Contractor or by any Subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, including the following:

.1 shall be amended by adding the following before the final semi-colon: ", including private entities performing work at the site, and exempt from the
coverage on account of number of employees or occupation, which entities shall maintain voluntary compensation coverage at the same limits specified for mandatory coverage for the duration of the Project (see Sections 11.1.2.1 and 11.1.5);

.7 shall be amended by deleting "and" at the end of the section

.8 shall be amended by adding "the Contract Documents, including under" before "Section 3.18," and adding "and" at the end of the section.

.9 shall be added as follows: "Claims for damages to the Work itself, through builder's risk insurance, pursuant to Section 11.4."

253. §11.1.2 shall be amended by deleting in the second sentence "whether" and "or claims made"; and adding at the end of the existing paragraph "The stipulated limits of liability aggregate coverages shall be for this Project."

The following subsections shall be added as follows:

§11.1.2.1 Worker's Compensation:

.1 State: Statutory Benefits

.2 Employer's Liability: $500,000.00 per accident
   $500,000.00 disease, policy limit
   $500,000.00 disease, each employee

§11.1.2.2 Comprehensive General Liability:

.1 Bodily Injury: $1,000,000.00 each occurrence
   $1,000,000.00 aggregate

.2 Property Damage: $1,000,000.00 each occurrence

.3 Products & Completed Operations: $2,000,000.00 aggregate (to be maintained for a period of two years after Final Payment; Contractor shall continue to provide evidence of such coverage to Owner on an annual basis during this period and Owner shall be named by endorsement as an Additional Insured for such coverage)

.4 Personal & Advertising Injury $1,000,000.00 aggregate

AMENDMENTS TO GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION
AIA DOCUMENT A201-2007 Page 62
The American Institute of Architects claims copyright and trademark rights in and to the above-referenced AIA agreement.
TEXAS ASSOCIATION OF SCHOOL BOARDS LEGAL SERVICES • COPYRIGHT 2012
Property Damage Liability Insurance shall provide explosion, collapse, and underground (X, C, and U) coverage.

Broad Form Property Damage Coverage shall include Completed Operations.

Broad Form Contractual Liability Coverage.

Aggregate Per Project Endorsement

§11.1.2.3 Contractual Liability:

1. Property Damage shall be included in Comprehensive General Liability Coverage.

2. Insurance sufficient to cover Contractor's contractual indemnities.

§11.1.2.4 Personal Injury:

1. With Employment Exclusion deleted; shall be included in Comprehensive General Liability Coverage.

§11.1.2.5 Business Automobile Liability (including owned, non-owned, hired, or any other vehicles): (Note: Texas statutory minimum for school district is $100,000 per person, $300,000 per occurrence, $100,000 property damage)

1. Bodily Injury (per person) $1,000,000.00

2. Bodily Injury (per accident) $1,000,000.00

3. Property Damage $1,000,000.00

§11.1.2.6 Umbrella Excess Liability coverages shall be:

1. $2,000,000.00 each occurrence

2. $2,000,000.00 aggregate

3. Aggregate Per Project Endorsement

§11.1.2.7 All Risk Builder's Risk Insurance. If Contractor is a Construction Manager at Risk, then, as specified in each Amendment Number One, in a total amount equal to the Guaranteed Maximum Price; otherwise, in the total amount of the Contract Sum. See Section 11.3."
254. §11.1.3 shall be amended by inserting “with all required endorsements attached”, after “Certificates of insurance; "and copies of policies and endorsements" after "insurance"; inserting "and Architect" after Owner”; in the second sentence, inserting "and endorsements" after policies”; in the third sentence, inserting ", policy and endorsement" after "certificate"; and in the last sentence deleting "with reasonable promptness" and replacing it with "to the Owner and Architect in writing within five (5) days of Contractor’s first notice of the same."

255. §11.1.5 shall be added as follows:

"§11.1.5 Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability."

256. §11.1.6 shall be added as follows:

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

257. §11.1.6.1 shall be added as follows:

"§11.1.6.1 Duration of the Project includes the time from the beginning of the Work on the Project until the Contractor's work on the Project has been completed and accepted by the Owner."

258. §11.1.6.2 shall be added as follows:

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

259. §11.1.6.3 shall be added as follows:

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

260. §11.1.6.4 shall be added as follows:
"§11.1.6.4  The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code 401.011(44) for all employees of the Contractor providing services on the Project for the duration of the Project."

261. §11.1.6 shall be added as follows:

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

262. §11.1.6.6 shall be added as follows:

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

263. §11.1.6.7 shall be added as follows:

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

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

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

264. §11.1.6.8 shall be added as follows:

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

265. §11.1.6.9 shall be added as follows:

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

266. §11.1.6.10 shall be added as follows:
"§11.1.6.10 The Contractor shall post on each Project site a notice, in the text, form, and manner prescribed by the TDI, informing all persons providing services on the Project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage."

267. §11.1.6.11 shall be added as follows:

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

.1 Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code 401.011(44) for all of its employees providing services on the Project for the duration of the Project;

.2 Provide to the Contractor, prior to that person beginning work on the Project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the Project for the duration of the Project;

.3 Provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;

.4 Obtain from each other person with whom it contracts, and provide to the Contractor:

.1 A certificate of coverage, prior to the other person beginning work on the Project; and

.2 A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;

.5 Retain all required certificates of coverage on file for the duration of the Project and for one year thereafter;

.6 Notify the Owner in writing by certified mail or personal delivery, within ten days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project; and
Contractually require each person with whom it contracts to perform as required by items 1-6, with the certificates of coverage to be provided to the person for whom they are providing services.

268. §11.1.6.12 shall be added as follows:

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

269. §11.1.6.13 shall be added as follows:

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

270. §11.1.6.14 shall be added as follows:

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

28 TAC § 110.110(i)"

271. "§11.2.1" shall be added at the beginning of the existing paragraph under "§11.2 Owner’s Liability Insurance".

272. §11.2.2 shall be added as follows:

"§11.2.2 The Owner shall be responsible for purchasing and maintaining property and casualty insurance no later than the date on which Owner begins to occupy or use any completed or partially-completed portions of the Work. If Owner occupies or uses any completed or partially-completed portion of the Work on any stage, then such occupancy or use must be consented to by the insurer and authorized by public authorities having jurisdiction over the Work, pursuant to Paragraphs 9.9.1 and 11.4.5. To the extent of overlap between Owner's property insurance and Contractor's builder's risk insurance, Contractor's builder's risk shall be primary.
§11.2.3 shall be added as follows:

"§11.2.3 Architect shall be responsible for purchasing and maintaining the Architect's liability and worker's compensation insurance as provided in the AIA Document B102-2007, as revised."

§11.3 shall be deleted in its entirety and replaced with the following:

"§11.3.1 BUILDER'S RISK INSURANCE Contractor shall obtain, at its expense, a builder's risk "all-risk" or equivalent insurance policy, including boiler and machinery insurance, in the amount of the initial Contract Sum (or, if the Project is a Construction Manager at Risk project, Guaranteed Maximum Price), plus value of subsequent Contract modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis. Coverage shall insure against the perils of fire, (with extended coverage) and physical loss or damage including, without limitation or duplication of coverage, lightning, collapse, earthquake, flood, wind storm, hurricane, hail, explosion, riot, civil commotion, smoke, aircraft, land vehicles, theft, vandalism, malicious mischief, falsework, testing and start-up, temporary buildings, debris removal including demolition occasioned by enforcement of any applicable legal requirements, and all other perils, and shall include materials stored on-site, off-site and in transit. Owner shall be a named insured under the policy, and the insurance shall also include the interests of Contractor, subcontractors, and sub-subcontractors and shall cover reasonable compensation for Architect’s and Contractor’s services and expenses required as a result of such insured loss. Contractor shall be responsible for maintaining said builder's risk insurance until the date of Final Completion. If this policy excludes Employee Theft or Dishonesty coverage, including Third Parties, Contractor shall obtain separate coverage sufficient to protect Owner’s interest and in an amount agreeable to Owner.

§11.3.2 shall be deleted and replaced with the following: "For any claim made against the builder's risk insurance, the deductible shall not exceed $2,500 for a Contract Sum (or Guaranteed Maximum Price if the Project is a Construction Manager at Risk project) of less than $4 million. For a Contract Sum (or Guaranteed Maximum Price if the Project is a Construction Manager at Risk project) of $4 million or more, the deductible shall not exceed $5,000."

§11.3.3 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire or other perils to the extent covered by property insurance obtained pursuant to this Section 11.3.3, except such rights as they may have to proceed of such insurance held by the Owner as a fiduciary. The foregoing waiver afforded the Architect, his agents, and employees, shall not extend to the liability imposed by Section 3.18.3. The Owner or the Contractor, as appropriate, shall require of the Architect, separate Contractors,
Subcontractors and Sub-subcontractors by appropriate agreements, written where legally required for validity, similar waivers, each in favor of all other parties enumerated in this Section 11.3.3. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, any separate contractors, subcontractors, sub-subcontractors, agents, and employees of any of them by appropriate written agreements, similar waivers each in favor of other parties enumerated herein.

§11.3.4 The Owner as fiduciary shall have power to adjust and settle a loss with insurers. The Contractor shall pay all subcontractors their just shares of insurance proceeds received by the Subcontractor, and by appropriate agreements shall require subcontractors to make payment to their sub-subcontractors in similar manner. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor under the insurance proceeds.

§11.3.5 Partial occupancy or use shall not commence until the insurance company providing this insurance has consented in writing, by endorsement or otherwise. Owner and Contractor shall take reasonable steps to obtain such consent and shall take no action without written mutual consent that would cause cancellation, lapse, or reduction of this insurance."

275. §11.4.1 shall be amended by deleting "Owner shall have the right to require"; deleting "to" after "Contractor" and replacing it with "shall"; inserting "separate payment and performance" after "furnish"; and deleting "as stipulated in bidding requirements or specifically required in the Contract Document on the date of execution of the Contract" and replacing it with the following:

"each bond to be in a total amount equal to 100% of the Contract Sum, or Guaranteed Maximum Price if the Project is a Construction Manager at Risk project, whichever is applicable. Provided, however, no limitation herein shall limit Contractor's liability under the Contract Documents. Except as provided below, such bond shall be furnished to Owner before any work begins and not later than five business days after execution of the Contract by Owner. (If the Guaranteed Maximum Price is not known at the time that a Construction Manager at Risk contract is awarded, then the sum of the payment and performance bonds must each be in an amount equal to the Project budget. The Construction Manager at Risk shall deliver the bonds not later than the tenth day after the date the Construction Manager at Risk executes the Contract, unless the Construction Manager at Risk furnished a bid bond or other financial security acceptable to the District to ensure that the Construction Manager will furnish the required payment and performance bonds when the Guaranteed Maximum Price is established.) All bonds shall be issued by a surety company licensed, listed and authorized to issue bonds in the State of Texas by the Texas Department of Insurance, and shall fully comply with Texas Insurance Code Section 3503.001 et seq. and Texas Government Code Chapter 2253, or their successors. The surety company shall have
a rating of not less than "A-X" according to the latest posted ratings on the A.M. Best website, www.ambest.com. The surety company shall provide, if requested, information on bonding capacity and other projects under coverage and shall provide proof to establish adequate financial capacity for this Project. Should the bond amount be in excess of ten percent (10%) of the surety company's capital and surplus, then the surety company issuing the bond shall certify that the surety company has acquired reinsurance, in a form and amount acceptable to the Owner, to reinsure the portion of the risk that exceeds ten percent (10%) of the surety company's capital and surplus with one or more reinsurers who are duly authorized and admitted to do business in Texas and that amount reinsured by a reinsurer does not exceed ten percent (10%) of the reinsurer's capital and surplus. Contractor shall immediately notify the Owner and Architect in writing if there is any change in: the rating; insolvency or receivership in any State; bankruptcy; right to do business in the State; or status of Contractor's sureties at any time until Final Completion.

276. §11.4.3 shall be added as follows:

"§11.4.3 The Contractor shall deliver copies of the required bonds to the Owner and Architect not later than five business days after execution of the Contract by Owner. All bonds will be reviewed by the Architect for compliance with the Contract Documents. In the event that the Architect has any questions concerning the sufficiency of the bonds, the bonds will be referred to the Owner or the Owner's Representative with Architect's recommendation.

277. §11.4.4 shall be added as follows:

"§11.4.4 All bonds shall be originals. The Contractor shall require the attorney-in-fact who executes the required Bonds on behalf of the Surety to affix thereto a certified and current copy of the power-of-attorney. The name, address, and telephone number of a contact person for the bonding company shall be provided."

278. §11.4.5 shall be added as follows:

"§11.4.5 Bonds shall guarantee the faithful performance of all of the covenants, stipulations, and agreements of the Contract. Bonds shall be signed by an agent, resident in the State of Texas. If at any time during the continuance of the Contract, the Owner determines that the Contractor is unable to complete the Work in accordance with the Contract Documents, any of the Contractor's bonds become insufficient, the surety becomes insolvent, or the surety's rating drops below the required level, then the Owner shall have the right to require from the Contractor additional and sufficient sureties or other security acceptable to the Owner, which the Contractor shall furnish to the satisfaction of the Owner within ten (10) days after notice to do so. These contractual remedies are in addition to all remedies available by law. In default thereof, all payment or money due to the Contractor may be withheld until the Contractor provides additional surety or security."
279. §12.1.1 shall be amended by adding "or Owner’s" after the first "Architect’s"; and by adding "or Owner" after "Architect".

280. §12.1.2 shall be amended by adding "or Owner" after the second "Architect".

281. §12.2.1.1 shall be amended by adding "Work" after "or" and by adding "or Construction Documents" after "Contract Documents".

282. §12.2.1.2 shall be added as follows:

"§12.2.1.2 The Owner may make emergency repairs to the Work or take such other measures necessary under the circumstances, if the Contractor does not promptly respond to a notice of defect or nonconforming Work. Contractor shall be responsible to Owner for this cost if the reason for the repairs is attributable to the Contractor. If payments then or thereafter due to the Contractor are not sufficient to cover such costs, then the Contractor shall pay the difference to the Owner on demand."

283. §12.2.2.1 shall be amended by deleting "or after the date for commencement of warranties established under Section 9.9.1"; inserting "Contract Documents or the" after "Requirement of the"; deleting the third sentence in its entirety; in the fourth sentence, after "correct", inserting "the Work as provided in 12.2.2.1.1"; deleting "if in accordance with Section 2.4"; and inserting the following sentence at the end of the paragraph: "Nothing contained in this Section 12.2 is intended to limit or modify any obligations under the law or under the Contract Documents, including any warranty obligations, expressed or implied."

284. §12.2.2.1.1 shall be added as follows:

"§12.2.2.1.1 If the Contractor fails to perform the corrective Work, then Owner may perform corrective Work, at Contractor's cost. If Owner performs corrective Work, then Owner may also remove nonconforming Work and store the salvageable materials or equipment at Contractor's expense. If the Contractor does not pay all costs incurred by Owner within ten (10) days after written notice, then Owner may, upon ten (10) additional days' written notice, sell the removed materials and equipment in accordance with Owner's policies, and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, including compensation for the Architect's services and expenses made necessary thereby. If such proceeds of sale do not cover costs which the Contractor should have borne, then the Contractor shall pay the difference to the Owner."

285. §12.2.2.3 shall be amended by deleting "not" and adding the following before the period ", but only as to that corrected Work."

286. §12.2.6 shall be added as follows:
"§12.2.6 Contractor shall replace, repair, or restore any parts of the Project or furniture, fixtures, equipment, or other items placed therein (whether by Owner or any other party) that are injured or damaged by any such parts of the Work that do not conform to the requirements of the Construction Documents or the Contract Documents or by defects in the Work."

287. §12.2.7 shall be added as follows:

"§12.2.7 The provisions of this Section 12.2 apply to Work done by Subcontractors of the Contractor as well as Work done directly by employees of the Contractor. The provision for this Section 12.2.7 shall not apply to corrective work attributable solely to the acts or omissions of any separate contractor of Owner (unless Contractor is acting in such capacities). The cost to Contractor of performing any of its obligations under this Section 12.2.7 to the extent not covered by insurance shall be borne by Contractor."

288. §12.2.8 shall be added as follows:

"§12.2.8 If, however, Owner and Contractor deem it inexpedient to require the correction of Work damaged or not done in accordance with the Construction Documents or the Contract Documents, then an equitable deduction from the Contract Sum shall be made by agreement between Contractor and Owner. Until such settlement, Owner may withhold such sums as Owner deems just and reasonable from moneys, if any, due Contractor. The settlement shall not be unreasonably delayed by the Owner and the amount of money withheld shall be based on estimated actual cost of the correction to Owner."

289. §13.1.1 shall be amended by changing "law" to "laws"; deleting the remainder of the sentence beginning with "place where the Project" and replacing it with the following: "State of Texas, and any litigation shall be conducted in state district court. Mandatory and exclusive venue for any disputes shall be in Dallas County, or, if no county is specified, then the county in which the Owner's main administrative office is located."

290. §13.2.1 shall be amended by inserting before "covenants" the following: "the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to". In the second sentence, delete "Except as provided in Section 13.2.2"; capitalize "Neither"; and delete "as a whole", and replace it with ", in whole or in part".

291. §13.2.2 shall be deleted and replaced with the following: "The invalidity of any part or provision of the Contract Documents shall not impair or affect in any manner whatsoever the validity, enforceability or effect of the remainder of the Contact Documents."

292. §13.3 shall be amended by deleting "or" before "if delivered"; and inserting before the final period the following: ", or if sent by electronic facsimile transmission, to the last business number known to the party giving notice, with electronic confirmation of receipt; or, if sent by electronic mail, to the email address of the Owner's designated representative, with electronic confirmation of receipt."
293. § 13.4.2 shall be amended in the first line of the paragraph by inserting “or” after “Owner” and deleting “or Contractor” after “Architect”.

294. §13.5.1 shall be amended by inserting "at appropriate times" after "be made"; after "authorities", inserting "having jurisdiction"; in the second sentence after "approvals"; inserting "which shall be included in the Cost of the Work. Provided, however, per Texas Government Code Chapter 2269, Owner shall bear all costs of inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the Owner."; and deleting the last sentence of the original paragraph.

295. §13.5.2 shall be amended by deleting "the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements" and replacing it with "then the Owner shall provide or contract"; deleting the remaining portion of the sentence beginning with "by an entity"; and at the end of the existing paragraph, adding "Architect, Owner and Contractor shall cooperate for the timely scheduling of such tests and inspections.".

296. §13.5.3 shall be amended by inserting ", but not limited to," after "including".

297. §13.5.4 shall be amended by inserting "with a copy to the Owner." before the period.

298. §13.6 shall be amended by inserting "Undisputed" before "Payments" and making the "P" a lower case "p" in the word "payments"; deleting the remainder of the first sentence beginning with "the parties" and replacing it with "provided by Texas Government Code Section 2251.025." The following shall be added at the end of the existing paragraph: "Any such payment shall be deemed overdue on the thirty-first day after Owner received Architect's invoice or Contractor's Certificate for Payment for the Architect, if Owner's Board of Trustees meets more than once per month. Any such payment shall be deemed overdue on the forty-sixth day after Owner receives Architect's invoice or Contractor's Certificate for Payment from the Architect, if Owner's Board of Trustees meets once a month or less frequently. No interest shall be due on sums properly retained by Owner, except as provided by law, or on disputed sums unpaid by Owner."

299. §13.7 shall be amended in the title by deleting "CLAIMS" and replacing it with "LITIGATION"; in the first sentence, deleting "claims and causes of action" and replacing it with "litigation"; deleting the word "final"; inserting "and" after "Agreement"; deleting "Substantial" and replacing it with "Final"; and in the last sentence, deleting "claims and".

300. §13.8 shall be added as follows:

"§13.8 EQUAL OPPORTUNITY IN EMPLOYMENT

§13.8.1 The Contractor and the Contractor's Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, age, disability, sex,
or national origin. The Contractor agrees to post in conspicuous places, available to employees and applicants, notices setting forth the Contractor's nondiscrimination policies.

§13.8.2 The Contractor and the Contractor's Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, age, disability, sex, or national origin.

301. §13.9 shall be added as follows:

§13.9 RECORDS

"§13.9.1 Contractor shall at all times through the date of Final Completion, maintain Job Records, including, but not limited to, invoices, payment records, payroll records, daily reports, diaries, logs, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda, other financial data and job meeting minutes applicable to the Project, in a manner which maintains the integrity of the documents. Job Records must be retained by Contractor for at least twelve (12) years after the date of Final Completion of the Project. Within 10 days of Owner's request, Contractor shall make such Job Records available for inspection, copying and auditing by the Owner, Architect or their respective representatives, at Owner's central office.

§13.9.2 If Contractor is a Construction Manager at Risk, then Contractor shall also maintain, in accordance with the provisions of Section 13.9.1, the following: subcontract files, including proposals of successful and unsuccessful bidders, bid recaps and subcontractor payments; original estimates; estimating work sheets; general ledger entries detailing cash and trade discounts received; insurance rebates and dividends; and any other supporting evidence deemed necessary by the Owner to substantiate charges related to the Contract.

§13.9.3 Contractor shall keep a full and detailed financial accounting system and shall exercise such controls as may be necessary for proper financial management under this Contract; the accounting and control systems shall be satisfactory to the Owner and shall be subject to the provisions of Section 13.9.1.

§13.9.4 Contractor shall keep all Construction Documents related to the Project, subject to the provisions of Section 13.9.1, provided, however, Contractor shall not destroy said documents until Contractor has confirmed with Owner in writing that Owner has obtained a copy of all as-built drawings.

§13.9.5 In the event that an audit by the Owner reveals any errors/overpayments by the Owner, then the Contractor shall refund to the Owner the full amount of such overpayments within thirty (30) days of such audit findings, or the Owner, at its option, reserves the right to deduct such amounts owed to the Owner from any payments due to the Contractor.
§13.10 shall be added as follows:

§13.10 PROPRIETARY INTERESTS AND CONFIDENTIAL INFORMATION

§13.10.1 Neither Architect nor Contractor shall use the image or likeness of Owner's Project or Owner's official logo or emblem and any other trademark, service mark, or copyrighted or otherwise protected information of Owner, without Owner's prior written consent. Contractor and Architect shall not have any authority to advertise or claim that Owner endorses Architect or Contractor's services, without Owner's prior written consent.

§13.10.2 Neither Architect nor Contractor shall disclose any confidential information which Comes into the possession of Architect or Contractor at any time during the Project, including but not limited to, the location and deployment of security devices, security access codes, student likenesses, student record information or employee information.

§13.10.3 The parties acknowledge that, as a public entity in the State of Texas, Owner is subject to, and must comply with, the provisions of the Texas Public Information Act, Texas Government Code Section 552, et seq.

303. Article 14.1.1 shall be amended by replacing "30" with "ninety (90)";

Article 14.1.1.2 shall be amended by adding "or" at the end of the sentence;

Article 14.1.1.3 shall be amended by inserting "of undisputed sums due" after "made payment,"; changing "a" to "an"; inserting "approved" before "Certificate for Payment"; and deleting "or" at the end of the subsection.

Article 14.1.1.4 shall be deleted.

304. §14.1.3 shall be amended by inserting "then, after the applicable time period," after "exists"; deleting "seven" and replacing it with "ten (10)"; deleting "including reasonable overhead and profit, costs incurred by reason of such termination and damages" and replacing it with "and for proven unrecoverable loss with respect to materials, equipment, tools, and construction equipment and machinery incurred to the date of termination."

305. §14.1.4 shall be amended in the first line by replacing "60" with "ninety (90)"; and replacing "seven" with "twenty (20)".

306. §14.2.1.3 shall be amended by deleting "or" at the end of the sentence.

§14.2.1.5 shall be added as follows:

"5 fails to furnish the Owner, upon request, with assurances satisfactory to the Owner, evidencing the Contractor's ability to complete the Work in compliance with all the requirements of the Contract Documents;"
§14.2.1.6 shall be added as follows:

"6 engage in worker misconduct in violation of Article 3.3.2 or engages in conduct that would constitute a violation of state or federal criminal law, including but not limited to, the laws prohibiting certain gifts to public servants, or engages in conduct that would constitute a violation of the Owner’s ethics or conflict of interest policies; or"

§14.2.1.7 shall be added as follows:

"7 fails to proceed continuously and diligently with the construction and completion of the Work, except as permitted under the Contract Documents."

307. §14.2.2 shall be amended by deleting "upon certification by the Initial Decision maker that sufficient cause exists to justify such action" and replacing it with "subject to any prior rights of the surety".

308. §14.2.3 shall be amended by adding the following at the end of the existing paragraph: 
"Any further payment shall be limited to amounts earned to the date of termination."

309. §14.2.4 shall be deleted and replaced with the following:

"If the costs of finishing the Work, including compensation for the Architects' services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, exceed the unpaid balance of the Contract Sum or Guaranteed Maximum Price if the Project is a Construction Manager at Risk project, then the Contractor and/or its Surety shall pay the difference to the Owner. The amount to be paid to the Owner shall be certified by Architect upon application. The obligation for payment shall survive termination of the Contract."

310. §14.2.5 shall be added as follows:

"§14.2.5 The parties hereby agree that: 1) if an order for relief is entered on behalf of the Contractor, pursuant to Chapter 11 of the U.S. Bankruptcy Code; 2) if any other similar order is entered under any debtor relief laws; 3) if Contractor makes an assignment for the benefit of one or more of its creditors; 4) if a receiver is appointed for the benefit of its creditors; or 5) if a receiver is appointed on account of its insolvency, any such event could impair or frustrate Contractor's performance of the Contract Documents. Accordingly, it is agreed that upon occurrence of any such event, Owner shall be entitled to request of Contractor or its successor in interest adequate assurance of future performance in accordance with the terms and conditions of the Contract Documents. Failure to comply with such request within ten (10) days of delivery of the request shall entitle Owner to terminate the Contract and to the accompanying rights set forth in Subparagraphs 14.2.1
through 14.2.6. In all events, pending receipt of adequate assurance of performance and actual performance in accordance with the Contract Documents, Owner shall be entitled to proceed with the Work with Owner's own forces or with other Contractors on a time and material or other appropriate basis, the cost of which will be charged against the Contract Sum."

311. §14.2.6 shall be added as follows:

"§14.2.6 As required by Texas Government Code Chapter 2253, if a Performance Bond has been furnished and the Contractor is declared by the Owner to be in default under the Contract, then the Surety shall promptly perform the Work, in full accordance with the plans, specifications and Contract Documents. Unless otherwise agreed in writing between the Surety and the Owner, the Surety shall complete the Work by the Surety entering into a Contract acceptable to Owner, with a Contractor acceptable to Owner, and shall obtain new Payment and Performance Bonds as required by law."

312. §14.3.2 shall be amended by inserting ", Guaranteed Maximum Price," after "Contract Sum" at the beginning of the paragraph; replacing "shall" with "may"; by inserting ", by mutual agreement" after "adjusted"; and deleting the second sentence.

313. §14.4.1 shall be amended by inserting the following language at the end of the existing sentence:

"Furthermore, if this Contract is a multi-year contract funded through Owner's current general funds that are not bond funds, then the Owner's Board of Trustees has the right to not appropriate adequate monies for the next fiscal year and to terminate this Contract at the end of each fiscal year during the term of the Contract, without the Owner incurring any further liability to Contractor as a result of such termination."

314. §14.4.3 shall be amended by deleting ", and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed" and replacing it with: "and for proven unrecoverable loss with respect to materials, equipment, tools, and construction equipment and machinery incurred to the date of termination. Such payment shall not cause the Contract Sum, or Guaranteed Maximum Price if the Project is a Construction Manager at Risk project, to be exceeded. Such payment shall not include overhead and profit for Work not executed."

315. §14.4.4 shall be added as follows;

"§14.4.4 Upon determination by a Court of competent jurisdiction that termination of the Contractor pursuant to Section 14.2 was wrongful, such termination will be deemed converted to a termination for convenience pursuant to Section 14.4, and Contractor's remedy for wrongful termination shall be limited to the recovery of the payments permitted for termination for convenience as set forth in Section 14.4."
316. Article 15 shall be amended in the title by adding "OF CONTRACTOR" at the end of the existing title.

317. §15.1.1 shall be amended by deleting "one of the parties" and replacing it with "the "Contractor"; inserting "interpretation of the Contract terms, extension of time," after "money"; before the period at the end of the first sentence, adding ", the Project or the Work"; deleting the second sentence in its entirety; and deleting at the end of the paragraph "party making the Claim" and replacing it with "Contractor".

318. §15.1.2 shall be amended by deleting "either the Owner or" and replacing it with "the"; deleting "other party" and replacing it with "Owner"; deleting "Initial Decision Maker with a copy sent to the"; deleting "if the Architect is not serving as the Initial Decision Maker."; in the second sentence, deleting "either party" and replacing it with "Contractor"; inserting "calendar" after "21" in both places; replacing "claimant" with "Contractor"; inserting "knew or should have known of", in place of "recognizes"; and replacing "later" with "earlier".

Add the following at the end of the paragraph:

"Claims must be initiated by written notice titled "Notice of Claim" ("Notice") and sent to the Architect and Owner's designated representative. The Notice shall clearly set out the specific matter of complaint, and the impact or damages which may occur or have occurred as a result thereof, to the extent that the impact or damages can be assessed at the time of the Notice. If the impact or damages cannot be assessed as of the date of the Notice then the Notice shall be amended at the earliest date that is reasonably possible. It is imperative that Owner receive timely specific Notice of any potential problem identified by Contractor in order that the problem can be mitigated or resolved promptly. Any claim or portion of a claim by Contractor that has not been made the specific subject of a Notice within ninety (90) days after the occurrence of the event giving rise to such claim or within ninety (90) days after the Contractor first knew or should have known of the condition giving rise to the Claim, whichever is earlier, shall be waived. Pursuant to Texas Civil Practices and Remedies Code Section 16.071, Contractor agrees that this is a reasonable notice requirement."

319. §15.1.3 shall be amended by adding ", as amended" after "9.7" and after "Article 14"; inserting "undisputed" before "payments" and "for Work performed" after "payments; and deleting the last sentence of the paragraph.

320. §15.1.4 shall be amended by adding "OR AN INCREASE IN THE CONTRACT SUM OR GUARANTEED MAXIMUM PRICE" at the end of the existing title.

In the first sentence, insert "additional cost or" after "Claim for"; insert "or Guaranteed Maximum Price," after "Contract Sum", and delete "before proceeding to execute the Work" and replace it with "to Owner and Architect".
Add the following at the end of the existing paragraph: "The Architect will promptly investigate such Claim and report findings and a recommended resolution in writing to the Owner and Contractor. If the Claim is approved by Owner's Board of Trustees, or Owner's representative if provided for herein, then Contractor shall proceed with the execution of the Work that is the subject matter of the Claim. If the Claim is rejected by the Owner, then Contractor may pursue alternative dispute resolution as provided for in the Contract Documents."

321. §15.1.5.1 shall be amended by deleting "cost and of".

322. §15.1.5.2 shall be amended by deleting "had an adverse effect on the scheduled construction" and replacing it with "prevented the execution of major items of work on normal working days." Add the following at the end of the existing paragraph: "‘Adverse weather conditions’ means unusually severe weather which is beyond the normal weather recorded and expected for the locality and/or the season or seasons of the year."

323. §15.1.5.3 shall be added as follows:

"§15.1.5.3 The Contractor shall anticipate and include in the construction schedule rain days due to adverse weather conditions in accordance with the language below. A rain day is defined as a day when rainfall exceeds one-half (.5) inch during a 24-hour period. The number of rain days expected for each month is based on the guide for average climatological conditions shall be the bulletin “Local Climatological Data”, published by the Department of Commerce. No request for an extension of time due to weather conditions shall be considered unless accompanied by Weather Bureau documentary evidence showing by comparison that such weather is abnormal to any of the past five (5) years."

324. §15.1.5.4 shall be added as follows:

"§15.1.5.4 Time extensions may be granted for rain days in any month when the cumulative number of rain days during that month exceeds the number scheduled, provided that the rainfall prevented the execution of major items of work on normal working days. No day will be counted as a rain day when substantial Contractor forces are able to perform Work on the Project for more than fifty percent (50%) of the usual workday or when the stage of the Work on the Project is not adversely impacted. The number of rain days shown in the above schedule for the first and last months of the Contract will be prorated in determining the total number of rain days expected during the period of the Contract."

325. §15.1.5.5 shall be added as follows:

"§15.1.5.5 No extension of time shall be made to the Contractor because of hindrances or delays from any cause which is the fault of Contractor or Contractor's Subcontractors or under Contractor's control. Claims for extension of time may only be considered because of rain delays, or hindrances or delays which are the fault of Owner and/or under Owner's
control, but only to the extent that Substantial Completion of the Project is adjusted beyond the original Substantial Completion date. Only claims for extension of time shall be considered because of hindrances or delays not the fault of either Contractor or Owner, but only to the extent that Substantial Completion of the Project exceeds the Substantial Completion date established for the Work. Board approval shall be required for any extension of time. No damages shall be paid for delays. Contractor shall only be entitled to time extensions per the terms of the Contract Documents."

326. §15.1.5.6 shall be added as follows:

"§15.1.5.6 Requests for time extension shall be submitted on a monthly basis and shall specify the time delay, the cause of the delay, and the responsible party for the delay, whether Contractor, Owner, rain day, or other. No claims for damages for delay shall be made by Contractor. Any claim not submitted under the terms of this Section shall be waived."

327. §15.1.6 shall be amended by deleting "and Owner" after "Contractor"; changing "waive" to "waives"; inserting "all" after "waives"; replacing "each other" with "Owner"; and inserting after "Contract" the following: "including, but not limited to, any amount owed as compensation for the increased cost to perform the Work as a direct result of Owner-caused delays or acceleration". Delete the remaining portion of the paragraph.

328. §15.2 shall be amended by replacing the title with "RESOLUTION OF CLAIMS AND DISPUTES".

329. §15.2.1 shall be deleted and replaced with the following:

"§15.2.1 Recommendation of Architect. Claims by the Contractor against the Owner, including those alleging an error or omission by the Architect, shall be referred initially to the Architect for written recommendation. An initial recommendation by the Architect shall be required as a condition precedent to mediation or litigation of all Claims by the Contractor arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Architect with no recommendation having been rendered by the Architect."

330. §15.2.2 shall be deleted and replaced with the following:

"The Architect will review Claims and within ten days of the receipt of the Claim take one of the following actions: (1) request additional supporting data from the Contractor, or (2) make a written recommendation to the Owner, with a copy to the Contractor."

331. §15.2.3 shall be deleted and replaced with the following:
"In evaluating Claims, the Architect may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Architect in making a written recommendation."

332. §15.2.4 shall be deleted and replaced with the following:

"If the Architect requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of such request, and shall either provide a response on the requested supporting data, advise the Architect when the response or supporting data will be furnished or advise the Architect that no supporting data will be furnished."

333. §15.2.5 shall be deleted and replaced with the following:

"Following receipt of the Architect's written recommendation regarding a Claim, the Owner and Contractor shall attempt to reach agreement as to any adjustment to the Contract Sum or Guaranteed Maximum Price and/or Contract Time. If no agreement can be reached, then either party may request mediation of the dispute pursuant to Section 15.3."

334. §15.2.6 shall be deleted and replaced with the following:

"Upon receipt of a Claim against the Contractor or at any time thereafter, the Architect or the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Architect or the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy."

335. §15.2.6.1 shall be deleted.

336. §15.2.7 shall be deleted.

337. §15.2.8 shall be deleted.

338. §15.3 and §15.3.1 shall be deleted and replaced with the following:

"§15.3 ALTERNATIVE DISPUTE RESOLUTION

§15.3.1 Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived under the terms of the Contract Documents, shall, after written recommendation by the Architect or 30 days after submission of the Claim to the Architect, be subject to mediation at the request of either party. Owner and Contractor expressly agree that mediation shall be a condition precedent to the initiation of any litigation arising out of such Claims. Claims for injunctive relief shall not be subject to this Section."
§15.3.2 shall be deleted and replaced with the following:

"The parties shall endeavor to resolve their Claims by mediation. Requests for mediation shall be filed in writing with the other party to the Contract. Mediation shall be subject to and in accordance with Chapter 154 of the Texas Civil Practice & Remedies Code. Mediation shall be conducted by a mutually-agreed-upon mediator. In the event that the parties are unable to agree on a mediator, then the mediation shall be conducted by the Center for Public Policy Dispute Resolution at the University of Texas School of Law."

§15.3.3 shall be deleted and replaced with the following:

"The parties shall share the mediator’s fee equally and, if any filing fee is required, shall share said fee equally. Mediation shall be held within the county where the Owner's main administrative office is located, unless another location is mutually agreed upon by the parties. Agreements reached in mediation shall be reduced to writing, considered for approval by the Owner's Board of Trustees, signed by the parties if approved by the Board of Trustees, and, if signed, shall thereafter be enforceable as provided by the laws of the State of Texas."

§15.3.4 shall be added as follows:

"§15.3.4 Any claim not resolved in mediation shall be subject to litigation pursuant to Section 13.1."

§15.4 shall be amended by adding "NO" before "ARBITRATION" in the title.

§15.4.1 shall be deleted and replaced with the following: "Notwithstanding anything to the contrary in the Contract Documents or in any document forming a part hereof, there shall be no mandatory arbitration for any dispute arising hereunder."

§§15.4.1.1 - 15.4.4.3 shall be deleted.

§15.5 shall be added as follows:

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

§15.6 shall be added as follows:

"§15.6 In any adjudication under this Agreement, reasonable and necessary attorneys' fees may be awarded to the prevailing party."
The following shall be added at the end of the existing contract

EXECUTED this _____ day of ______________, 2016.

OWNER:      CONTRACTOR:

_____________________________   ___________________________________
Sid Grant      __________________
Assistant Superintendent for Business    __________________
and Support Services     __________________
Coppell Independent School District     __________________
Exhibit A

Prevailing Wage Rates

[to be attached]
<table>
<thead>
<tr>
<th>#</th>
<th>Project Name</th>
<th>Amount</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
<th>2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>NEW NET ZERO MS</td>
<td>$50,978,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>CONVERT MSW TO CHS-9</td>
<td>$23,060,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>RESTROOM RENOVATIONS</td>
<td>$2,460,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>SERVICE CENTER RENS</td>
<td>$6,065,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>HS ADDS &amp; RENS</td>
<td>$6,065,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>MS EAST ADDS &amp; RENS</td>
<td>$6,065,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>MS NORTH ADDS &amp; RENS</td>
<td>$6,065,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>NEW NET ZERO ES</td>
<td>$27,500,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total: $154,848,000
2016 BOND PROGRAM
Appendix H

BID PACKAGE SCOPES
<table>
<thead>
<tr>
<th>Student Growth Solutions</th>
<th>Total Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Middle School</td>
<td>49,978,000</td>
</tr>
<tr>
<td>(Assumes fully sustainable school like Lee Elem)</td>
<td></td>
</tr>
<tr>
<td>180,000 SF @$252</td>
<td></td>
</tr>
<tr>
<td>$3.7 million for land infrast. (10% Soft Costs) Subracted $300k for LEED</td>
<td></td>
</tr>
<tr>
<td>9th Grade Center</td>
<td>22,500,000</td>
</tr>
<tr>
<td>Conversion and Renovation</td>
<td></td>
</tr>
<tr>
<td>CMSE Renovation &amp; Addition</td>
<td>15,200,000</td>
</tr>
<tr>
<td>Band and Storage</td>
<td>2,500,000</td>
</tr>
<tr>
<td>Addition/Reconfiguration</td>
<td></td>
</tr>
<tr>
<td>Elementary Growth Solution</td>
<td>27,500,000</td>
</tr>
<tr>
<td>Technology</td>
<td></td>
</tr>
<tr>
<td>Backup Network Operating</td>
<td>140,000</td>
</tr>
<tr>
<td>Center Space Conversion</td>
<td></td>
</tr>
<tr>
<td>Project Description</td>
<td>CHS</td>
</tr>
<tr>
<td>-----------------------------------------------------------------------------------</td>
<td>-----</td>
</tr>
<tr>
<td>Service Center and Network Operations Center Renovation</td>
<td>5,925,000</td>
</tr>
<tr>
<td>CHS Additions and Renovation (Including Fine Arts, Locker rooms and all restrooms)</td>
<td>23,000,000</td>
</tr>
<tr>
<td>CHS Additions and Renovation (Including Fine Arts, Locker rooms and all restrooms)</td>
<td></td>
</tr>
<tr>
<td>CHS Additions and Renovation (Including Fine Arts, Locker rooms and all restrooms)</td>
<td></td>
</tr>
<tr>
<td>Renovations</td>
<td>44,000 SF @ $125 SF</td>
</tr>
<tr>
<td>CHS Additions and Renovation (Including Fine Arts, Locker rooms and all restrooms)</td>
<td></td>
</tr>
<tr>
<td>District-Wide Improvements</td>
<td>1,225,000</td>
</tr>
<tr>
<td>HVAC Replacements</td>
<td>480,000 SF</td>
</tr>
<tr>
<td>Parking Addition at New Tech</td>
<td>1,000,000</td>
</tr>
<tr>
<td>Baseball/Softball Locker Room at Competition Fields</td>
<td>1,000,000</td>
</tr>
<tr>
<td>Infrastructure Development of Cypress Waters Properties</td>
<td>1,000,000</td>
</tr>
<tr>
<td>Foundation Repairs</td>
<td>250,000</td>
</tr>
<tr>
<td>Structural Learning Room Upgrade</td>
<td>100,000</td>
</tr>
</tbody>
</table>